



POLICE DEPARTMENT

The  
City  
of  
New York

In the Matter of the Disciplinary Proceedings

X

- against - : FINAL

Police Officer Steven Richardson : ORDER

Tax Registry No. 934344 : OF

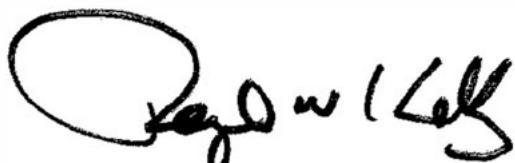
Brooklyn Court Section : DISMISSAL

X

Police Officer Steven Richardson, Tax Registry No. 934344, Social Security No. ending in Person A having been served with written notice, has been tried on written Charges and Specifications numbered 2008-0180, 2009-0235, 2010-0182, 2011-3603, 2011-4275, 2011-4279, 2011-4500, 2011-5895, 2011-6195 and 2011-6478, as set forth on form P.D. 468-121, dated June 30, 2008, November 19, 2009, March 17, 2010, February 4, 2011, twice on May 20, 2011, April 12, 2011, December 9, 2011, December 15, 2011 and December 27, 2011. After a review of the entire record, Respondent has been found Guilty in Disciplinary Case No. 2008-0180. In Disciplinary Case No. 2009-0235, Respondent is found Guilty in Specification No. 1 and Not Guilty in Specification Nos. 2, 3, 4 and 5. Respondent has also been found Guilty in Disciplinary Case Nos. 2010-0182 and 2011-3603. In Disciplinary Case No. 2011-4275, Respondent is found Guilty of Specification Nos. 1, 2, 3, 4 and 5 and Not Guilty of Specification No. 6. In the matter of Disciplinary Case No. 2011-4279, prosecution has been deferred. In addition, Respondent has been found Guilty in Disciplinary Case Nos. 2011-4500 and 2011-5895.

In Disciplinary Case No. 2011-6195, Respondent has been found Guilty of Specification No. 1 and Not Guilty of Specification No. 2. In Disciplinary Case No. 2011-6478, Respondent has been found Guilty of Specifications Nos. 1 and 3 and Not Guilty of Specification No. 2.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Steven Richardson from the Police Service of the City of New York.



RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE: On November 26, 2012 @0001HRS.



POLICE DEPARTMENT

September 24, 2012

In the Matter of the Charges and Specifications : Case Nos. 2008-0180, 2009-0235,  
-against- : 2010-0182, 2011-3603, 2011-4275,  
Police Officer Steven Richardson : 2011-4279, 2011-4500, 2011-5895,  
Tax Registry No. 934344 : 2011-6195 and 2011-6478

Brooklyn Court Section :  
x

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable Martin G. Karopkin  
Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Rita Bieniewicz, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: John Tynan  
Worth, Longworth, & London, LLP  
111 John Street Suite 640  
New York, New York 10038

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

The above-named member of the Department appeared before me on March 26, 2012, May 10, 2012, May 31, 2012 and June 15, 2012, charged with the following:

I. Disciplinary Case No. 2008-0180

1. Said Police Officer Steven Richardson, assigned to Transit Bureau Citywide Vandals Task Force, on or about June 23, 2008, did wrongfully violate a valid New York County Family Court Order of Protection, Docket # O-02304-08, in that said Officer contacted an individual known to the Department in violation of said Order.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONDUCT PROHIBITED CONDUCT – GENERAL REGULATIONS  
NYS PENAL LAW SECTION 215.50 – CRIMINAL CONTEMPT IN THE SECOND DEGREE

2. Said Police Officer Steven Richardson, assigned to Transit Bureau Citywide Vandals Task Force, on or about June 23, 2008 having changed his residence, did fail and neglect to notify his Commanding Officer by submitting form Change of Name, Residence or Social Condition (PD 451-021), as required.

P.G. 203-18, Page 1, Paragraph 3 RESIDENCE REQUIREMENTS

3. Said Police Officer Steven Richardson, on or about June 26, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer did turn in a duplicate Police Officer shield bearing number #4248, to shield desk personnel.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED CONDUCT GENERAL REGULATIONS

II. Disciplinary Case No. 2009-0235

1. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between September 8, 2008 and January 22, 2009, did fail and neglect to maintain a current New York State Driver's License, as required.

P.G. 203-03, Page 1, Paragraph 5 – GENERAL REGULATIONS – COMPLIANCE WITH ORDERS

2. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between September 8, 2008 and January 22, 2009, did fail and

neglect to notify his Commanding Officer of the suspension of his New York State Driver's License, as required.

P.G. 203-03, Page 1, Paragraph 5    GENERAL REGULATIONS –  
COMPLIANCE WITH ORDERS

3. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between September 8, 2008 and January 22, 2009, did fail and neglect to provide the New York State Department of Motor Vehicles with a current address, as required.

NYS VTL 505(5)    DUPLICATE AND AMENDED LICENSES AND  
PERMITS; CHANGE OF ADDRESS

4. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between January 28, 2008 and April 1, 2008, and between June 11, 2008 and August 1, 2008, did wrongfully operate a 2007 Kia [REDACTED] New York State License Plate number [REDACTED] was uninsured.

NYS VTL 312(1)    REGISTRATION OF MOTOR VEHICLES

5. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between August 2, 2006 and April 5, 2008, did commit conduct prejudicial to the good order, efficiency or discipline of the Department in that he wrongfully and without just cause fail and neglect to pay the following Universal Summonses, as required:

#7339281551, for expired meter, dated 8/2/06, issued to NYS License Plate number [REDACTED] to Police Officer Steven Richardson.

#7345653833, for double parking, dated 8/11/06, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#1115020699, for inspection sticker expired/missing, dated 9/13/06, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#7923611440, for no standing/exec. truck loading, dated 11/18/06, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#1144791790, for no standing-day/time limits, dated 7/20/07, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#7810083820, for expired meter, dated 10/12/07, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#7810083831, for inspection sticker expired/missing, dated 10/12/07, issued to NYS License Plate number [REDACTED], registered to Police Officer Steven Richardson.

#7209361388, for no parking-street cleaning, dated 12/3/07, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson.

#7248911720 for registration sticker expired/missing, dated 1/15/08, issued to NYS License Plate number [REDACTED] registered to Police Officer Steven Richardson

#7290638610, for no parking-street cleaning, dated 04/05/08, issued to NYS License Plate [REDACTED] registered to Police Officer Steven Richardson.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

III. Disciplinary Case No. 2010-0182

1. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between January 1, 2009 and April 30, 2009, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer did fail and neglect to safeguard Department property, to wit: one (1) vest, one (1) Patrol Guide, one (1) gun belt, one (1) magazine holder, one (1) pair of handcuffs, one (1) mace, and several boxes of ammunition in that said Police Officer placed said items in storage, failed to make payments for said storage, resulting in the sale of these items.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED CONDUCT GENERAL REGULATIONS

2. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between April 30, 2009 and July 15, 2009, did fail and neglect to notify his Commanding Officer in a timely manner of the loss of the items referenced in Specification One (1), as required.

P.G. 219-20, Page 1, Paragraph 3 – LOSS OR THEFT OF DEPARTMENT PROPERTY

IV. Disciplinary Case No. 2011-3603

1. Said Police Officer Steven Richardson, assigned to the Brooklyn Court Section, while off-duty, on or about January 27, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer failed to appear at the New York State Supreme Court for a scheduled court appearance in his pending criminal case, #20280-2010.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Police Officer Steven Richardson, assigned to the Brooklyn Court Section, on or about February 2, 2011, upon changing his residency, failed to immediately notify his Commanding officer.

Interim Order 30, Series 2010 – RESIDENCE REQUIREMENTS

V. Disciplinary Case No. 2011-4275

1. Said Police Officer Steven Richardson, while off-duty, on or about and between February 2, 2011 and February 4, 2011, did violate a Temporary Order of Protection, Docket #20280/2010, which directs him to “stay away” from Person A Person A Person A that Police Officer Richardson was residing with Person A Person A Person A

NYS PENAL LAW SECTION 215.50 (6) – CRIMINAL CONTEMPT IN THE SECOND DEGREE

2. Said Police Officer Steven Richardson, while off-duty, on or about February 4, 2011, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Richardson engaged in a verbal and physical altercation with [REDACTED]

P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS

3. Said Police Officer Steven Richardson, while off-duty, on or about February 4, 2011, while off-duty at a location known to the Department, in Suffolk County, having been involved in a police incident, did thereafter fail to promptly notify the Operations Unit, as required.

P.G. 212-32, Page 1, Paragraph 2 – OFF DUTY INCIDENTS INVOLVING UNIFORMED MEMBERS OF THE SERVICE - COMMAND OPERATIONS

4. Said Police Officer Steven Richardson, while off-duty, on or about and between March 16, 2011 and March 18, 2011, did fail to comply with an order in that Lieutenant Nelson Tolentino ordered him to turn in his Department-issued identification card, shield, metrocard # [REDACTED] to the 105<sup>th</sup> Precinct and said Police Officer failed to do so.

P.G. 203-03, Page 1, Paragraph 2 COMPLIANCE WITH ORDERS GENERAL REGULATIONS

5. Said Police Officer Steven Richardson, while off-duty, on or about and between March 16, 2011 and March 18, 2011, did fail to safeguard his Department-issued identification card.

P.G. 206-03, Page 2, Paragraph 1    DISCIPLINARY MATTERS  
VIOLATIONS SUBJECT TO COMMAND  
DISCIPLINE

6. Said Police Officer Steven Richardson, on or about and between March 16, 2011 and March 18, 2011, did fail to notify the desk officer, precinct of occurrence immediately after becoming aware that he had lost his Department-issued identification card.

P.G. 219-21, Page 1, Paragraph 1    LOST /STOLEN FIREARM, SHIELD,  
IDENTIFICATION CARD

VI. Disciplinary Case No. 2011-4279

1. Said Police Officer Steven Richardson, on or about and between October 4, 2010 and February 1, 2011, did violate a temporary Order of Protection, Docket # 20280/10, issued on October 1, 2010 by the New York State Supreme Court and valid until April 4, 2011.

NYS PENAL LAW 215.50 (6)    CRIMINAL CONTEMPT IN THE SECOND  
DEGREE

VII. Disciplinary Case No. 2011-4500

1. Said Police Officer Steven Richardson, assigned to the Brooklyn Court Section, on or about April 5, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer having been directed by competent authority to report to the 105<sup>th</sup> Precinct while on suspension, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

2. Said Police Officer Steven Richardson, assigned to the Brooklyn Court Section, on or about April 8, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer was discourteous to Captain Rosendo Velez in that said Officer told Captain Velez to “get a life” and when advised of his re-suspension stated “Thank you, I love the vacation,” and terminated that conversation.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

VIII. Disciplinary Case No. 2011-5895

1. Said Police Officer Steven Richardson, while on duty and assigned to the Queens Court Section, on or about and between September 1, 2010 and September 30, 2010, did solicit or accept a loan from a merchant, firm or person doing business located or residing in area of assignment, identity known to the Department, in Queens County.

P.G. 203-13, Page 2, Paragraph 12 – FINANCIAL RESTRICTIONS  
PROHIBITED ACTS

IX. Disciplinary Case No. 2011-6195

1. Said Police Officer Steven Richardson, while off-duty, on or about February 19, 2011 and February 25, 2011, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer wrote a check from a Chase Bank account that he knew had insufficient funds to cover the check.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Police Officer Steven Richardson, while assigned to the Queens Court Section, on or about and between June 10, 2011 and October 1, 2011, did fail and neglect to maintain a current New York State Driver's License, as required.

P.G. 203-03, Page 1, Paragraph5 – GENERAL REGULATIONS  
COMPLIANCE WITH ORDERS

X. Disciplinary Case No. 2011-6478

1. Said Police Officer Steven Richardson, while off duty, on or about January 31, 2011, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer was involved in a motor vehicle accident and provided the other motorist, identity known to the Department, with a false name.

P.G. 203-10 GENERAL REGULATIONS PUBLIC CONTACT

2. Said Police Officer Steven Richardson, while assigned to the Brooklyn Court Section, between September 11, 2009 and January 15, 2010, did commit conduct prejudicial to the good order, efficiency or discipline of the Department in that he wrongfully and without just cause, failed and neglected to pay the following Universal Summons, resulting in his being designated a “SCOFLAW”:

#7236574806, No Parking, 09/11/09  
#7815954194, No Parking-Street Cleaning, 09/22/09  
#7326633150, No Parking-Street Cleaning, 12/14/09  
#1257252392, Registration Missing /Expired, 01/13/10

#7338288513, No Parking-Street Cleaning, 01/15/10

P.G. 203-10, Page 1, Paragraph 5    GENERAL REGULATIONS  
PROHIBITED CONDUCT

3. Said Police Officer Steven Richardson, while assigned to the Brooklyn Court Section, on or about January 31, 2011, in New York County, did wrongfully operate a 2006 Jeep Commander while knowing or having reason to know that his license was suspended.

NYS VTL SECTION 511 (1) (a)    OPERATION WHILE LICENSE OR  
PRIVILEGE IS SUSPENDED OR  
REVOKE; AGGRAVATED  
UNLICENSED OPERATION

The Department was represented by Rita Bieniewicz, Esq., Department Advocate's Office. Respondent was represented by John Tynan, Esq. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

I. Disciplinary Case No. 2008-0180

Respondent is found Guilty of all three specifications.

II. Disciplinary Case No. 2009-0235

Respondent is found Guilty of Specification No. 1. He is found Not Guilty of Specification Nos. 2, 3, 4, and 5.

III. Disciplinary Case No. 2010-0182

Respondent is found Guilty of both specifications in this case.

IV. Disciplinary Case No. 2011-3603

Respondent is found Guilty of both Specifications in this case.

V. Disciplinary Case No. 2011-4275

Respondent is found Guilty of Specification Nos. 1, 2, 3, 4 and 5. He is found Not Guilty of Specification No. 6.

VI. Disciplinary Case No. 2011-4279

Prosecution of this disciplinary case has been deferred.

VII. Disciplinary Case No. 2011-4500

Respondent is found Guilty of both specifications in this case.

VIII. Disciplinary Case No. 2011-5895

Respondent is found Guilty of the single specification in this case.

IX. Disciplinary Case No. 2011-6195

Respondent is found Guilty of Specification No. 1 and Not Guilty of Specification No. 2.

X. Disciplinary Case No. 2011-6478

Respondent is found Guilty of Specification Nos. 1 and 3 and Not Guilty of Specification No. 2.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Lieutenant Nelson Tolentino, Sergeant Debbie Graves, Sergeant Sondra Duncanson, and Sergeant Aramus Jeanty as witnesses.

Lieutenant Nelson Tolentino

Tolentino, a 21-year member of the Department, has been assigned to the Transit Bureau Investigations Unit for 11 years. He is currently a third platoon team leader and he conducts investigations, such as for domestic and off-duty incidents. He testified that his first investigation of Respondent entailed a verbal dispute involving Respondent and Person A (while they were traveling in an automobile at West 135 Street in Manhattan. Tolentino said that subsequent to the domestic dispute, Person A applied for and was issued an Order of Protection (Department's Exhibit [DX] 2 is a copy of the Order of Protection, effective from April 7, 2008 through June 23, 2008).

With regard to Disciplinary Case No. 2008-0180, Tolentino testified that on June 26, 2008, he received a phone call or he reached out to Person A and she advised him that Respondent violated the Order of Protection on June 23, 2008. The Order of Protection prohibited Respondent from contacting Person A but there was a stipulation that allowed for contact with regards to matters involving Person A told Tolentino that all

the parties were advised of the order that was in place. After they left the court, Person A said that she received a phone call from Richardson. Tolentino had an opportunity to review the voicemail message in his office when Person A played him the substance of the message via cell phone (DX 1 and DX 1A are the compact disc and transcript of the voicemail message). Tolentino stated that in the voicemail, Respondent:

pretty much tells her that they had to talk, that he was trying to keep his family together, that he didn't care what the courts had to tell him or what the Department you know, would do and essentially said that they had to talk.

Respondent was consequently arrested for violating the Order of Protection.

As a result of Respondent's arrest and suspension, Tolentino learned that the address that Respondent provided at the time of his arrest [REDACTED] [REDACTED] not match the address on file with the Department ([REDACTED] [REDACTED] Tolentino indicated that Respondent was required to turn in his Department shield bearing number 4248 when he was suspended, and it was determined that the shield submitted was a duplicate and not the actual Department shield. Tolentino noted that it is against the requirements of the Department to have a duplicate shield.

With regard to Disciplinary Case No. 2011-4275, Tolentino testified that there came a time when he was called upon to investigate another domestic incident between Person A and Respondent in [REDACTED] County. He learned through background checks with the Internal Affairs Unit of the [REDACTED] County Police Department that on March 1, 2011, Respondent had notified the [REDACTED] County police that Person A had stayed over in his residence on February 3, 2011. Respondent told the police that a dispute occurred, where Person A scratched him and hit him on the nose, causing bleeding. Tolentino indicated that, to his knowledge, an Order of Protection was in place at that time. The Internal Affairs

Unit investigated the incident because of the Order of Protection on file, and Respondent was subsequently arrested and suspended.

Tolentino indicated that he was present when Respondent was suspended on or about March 16, 2011. He said that Respondent was required to hand in his Department-issued identification card, Metro card and Long Island Railroad pass at the time of suspension, but Respondent stated that he did not have the property with him. Tolentino agreed that Respondent was required, as a member of the Department, to have those items on him.

According to Tolentino, Respondent had informed them at the time of the suspension that he did not have his Department identification card, and Respondent did not find it at home when he subsequently checked there. On March 18, 2011, Captain Stewart went to Respondent's residence as a result of his arrest by the [REDACTED] County police. Tolentino said that Respondent told Stewart at that point that the identification card was lost.

Tolentino indicated that Respondent was required to immediately notify the Operations Unit concerning his involvement in the domestic incident on February 3, 2011, but to Tolentino's knowledge, Respondent did not make a notification.

With regard to Disciplinary Case No. 2011-3603, Tolentino said that when he was conducting his investigation, the criminal case in New York County initially started. He was monitoring the case via Web Crims to "ascertain the future." At some point, Tolentino could not find the next court appearance. Consequently, he called Respondent's Integrity Control Officer (ICO), Lieutenant Ramos, to ask if he was aware of Respondent's future court appearance. Ramos made a computer inquiry and he

advised Tolentino that there was an open warrant as a result of Respondent not appearing at New York County Court on January 27, 2011. Tolentino acknowledged that he was not present in court on January 27, 2011, and he was not aware if any other member of the Department was present in court tracking the case. He denied that the Department or anyone from his unit influenced or attempted to influence the judge's decision to issue the bench warrant on January 27, 2011.

Tolentino said that Respondent was then either ordered in or he came into work on February 2, 2011, and he was subsequently returned to court on the warrant. Tolentino said that he did not personally take Respondent to court but he was involved in preparing the Department forms for the Respondent's subsequent suspension.

Tolentino was not aware of whether any member of the Department had gone to or tried to call the residence that Respondent had on file with the Department upon learning that the bench warrant was ordered. Tolentino indicated that the address Respondent had listed with the Department on or about February 2, 2011 was not the proper address where he was residing. Tolentino said that at the time, Respondent was residing at [REDACTED] After refreshing his memory with his closing report, Tolentino said that the address Respondent had on file with the Department was [REDACTED]

As to Disciplinary Case No. 2011-4500, Tolentino testified that he learned that Respondent had failed to report to the 105 Precinct while he was suspended. On April 5, 2011, Tolentino went to Respondent's residence when he failed to appear in [REDACTED] County Court. Tolentino indicated that he personally instructed Respondent to appear at the 105 Precinct on Monday, Wednesday, and Friday while he was under suspension.

When Tolentino subsequently conferred with the 105 Precinct, he learned that Respondent never appeared. On April 8, 2011, Tolentino notified his captain, Rosendo Velez, of Respondent's failure to appear. Velez made the determination that Respondent would be suspended.

Tolentino noted that after Velez made the decision to suspend Respondent, Velez made a telephone call to Respondent to ascertain his whereabouts in order to assess and suspend him. This telephone call was recorded and, as part of his investigation, Tolentino had an occasion to obtain and listen to the recording (DX 4 is a compact disc of the recorded conversation and DX 4A is a transcript of the conversation). Tolentino explained that during the recorded telephone conversation, Velez tried to ascertain Respondent's location, but Respondent would not tell him where he was and simply stated that he was out. Velez informed Respondent that he was being re-suspended as a result of not appearing at the 105 Precinct. According to Tolentino, Respondent "basically told the captain to get a life, said thank you I love the vacation and the conversation ended at some point."

Tolentino indicated that it was not customary for a suspended member of the Department to report to a command. He said that usually an officer submits a waiver form and would not have to appear, but in this case, Velez informed Respondent that the waiver was being removed. Tolentino explained that because Respondent had missed the court appearance on January 27, 2011 and he had moved several times, the waiver was being removed so that they would be able to find Respondent when they needed him.

Upon questioning by the Court, Tolentino clarified that Respondent would sign in at the precinct so they could "check him in" and then he would sign out.

When Tolentino interviewed Respondent in connection with his failure to report, Respondent told Tolentino that he may have received alternate instructions from a Lieutenant Langmaack. According to Tolentino, Respondent said that Langmaack told him that there was “some sort of confusion” and despite Tolentino’s instructions for Respondent to report to the 105 Precinct, Respondent no longer had to report because of the confusion. Tolentino explained that Langmaack was the second platoon team leader in Tolentino’s unit. Tolentino indicated that he spoke with Langmaack, but he was unable to corroborate Respondent’s version of events. Langmaack told Tolentino that he reiterated Tolentino’s instructions to Respondent to report to the 105 Precinct on Monday, Wednesday and Friday. Langmaack also recorded his instructions to Respondent in the unit’s Command Log.

With regard to Disciplinary Case No. 2011-6478, Tolentino testified that he was called upon to investigate a matter regarding Respondent’s involvement in a car accident. Tolentino said he received a call from Person A who informed him that Respondent had been involved in an accident with her vehicle. Tolentino noted that the accident occurred on January 31, 2011 at West 138 Street and 8 Avenue. Person A insurance company contacted her, but she had no information concerning the accident. Tolentino subsequently interviewed the other motorist.

The motorist told Tolentino that Respondent backed his vehicle out of West 138 Street and struck The motorist car at the corner. Subsequently, they called 911 and Police Officers Arocho and Herrera of the 32 Precinct responded. The two motorists agreed to repair their damages and did not file an accident report, so the officers left the two motorists to exchange information.

According to Tolentino, [The motorist] said that he asked Respondent for his vehicle's paperwork. [The motorist] said that the Respondent would not show him the paperwork or his license. Instead, Respondent dictated his information to [The motorist] and [The motorist] wrote it down. [The motorist] said that Respondent gave his name as Sean Robinson and he provided the client ID on his driver's license.

Tolentino said that [The motorist] stated that sometime in March he was working in Harlem Hospital when he encountered Arocho and Herrera. [The motorist] told the officers that he was having problems with the other motorist (Respondent), who would not give him money for the damages to his vehicle. When [The motorist] went to the 32 Precinct, he came across Arocho and Herrera again. The officers looked in their Activity Logs, where they had recorded the names of the two motorists. [The motorist] told Arocho and Herrera that the other motorist gave him the name Sean Robinson, but the officers advised [The motorist] at that point that he was given a false name since they did a computer check of the name.

As to how the officers obtained the information that [The motorist] was given a false name, Tolentino explained that Arocho and Herrera had started writing down the two motorists' information, but at some point the two motorists were not going to have an accident report prepared and they agreed to repair their damages. Tolentino indicated that Respondent had given the officers his name as Steven Richardson "and all the correct information," and Respondent had identified himself as a member of the Department. Tolentino was unsure if Respondent had provided Arocho and Herrera with his driver's license. Tolentino said that Arocho and Herrera then ran Respondent's driver's license on a Department computer and they determined that the license was suspended.

Tolentino stated that, to his knowledge, Respondent's license was suspended on January 31, 2011 because he failed to have continual insurance coverage for his vehicle.

During the course of the investigation, Tolentino checked Respondent's license plate number in the Parking Violations Bureau web site and he determined that Respondent had numerous unpaid parking summonses. Tolentino ordered an abstract of Respondent's driving record (DX 3). Tolentino stated that the unpaid summonses was an issue that arose in his original case with Respondent<sup>1</sup> and when Tolentino followed up on the summonses, they still appeared in the system as unpaid.

Tolentino indicated that, to his knowledge, Arocho and Herrera did not take any steps to verify ~~The motorist's~~ assertion that Respondent had given him a false name nor did they review any cell phone. Tolentino stated that he went through ~~The motorist~~ phone directory, where ~~The motorist~~ had saved Respondent's phone number under the name "Sean." Tolentino also spoke with ~~The motorist~~ insurance agent, Laura Rivera. Rivera had phone conversations with Respondent trying to seek money for the damages on ~~The motorist~~ vehicle. She told Tolentino that when she spoke with Respondent, she referred to him as Sean and, to her knowledge, his name was Sean.

With regard to Disciplinary Case No. 2009-0235, Tolentino testified that Respondent did not have a valid driver's license for the time period of September 8, 2008 through January 22, 2009. As part of his investigation, Tolentino learned that Respondent's driver's license was suspended as a result of not having insurance coverage on his vehicle. With each abstract of driving record Tolentino obtained from the DMV, there was an accompanying letter in which the DMV informed Respondent of the

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<sup>1</sup> Tolentino is apparently referring to Disciplinary Case No. 2008-0180.

impending suspension and a letter informing him when his license was eventually suspended. Tolentino stated that the notices were sent to the address on file at the DMV.

After refreshing his recollection by looking at his investigator closing report, Tolentino stated that in 2009, Respondent's address would have been [REDACTED] [REDACTED] and that address never changed with the DMV. During one interview, Tolentino asked Respondent whether his address with the DMV was current, and Respondent told him that "at different time periods it would have been and it wouldn't have been." Tolentino believed that Respondent said he was just receiving mail at [REDACTED] [REDACTED] but "also in his interviews [Respondent] said during these time periods in which the suspensions occurred he was residing at [REDACTED]" Tolentino reiterated that the address on file with the DMV was [REDACTED]. He acknowledged that Respondent was, at the time, living at the same address that he had on file with the DMV. Tolentino stated, "He had moved from different locations so at different time periods he ... would reside there move out and then move back so but when these two suspensions came down it was during the period in which he was back at [REDACTED]" He agreed that during those time periods, Respondent had lived elsewhere and had not changed the address on his license with the DMV.

On November 8, 2010, Tolentino contacted Respondent's ICO, Ramos, to advise him that Respondent's license was suspended. According to Tolentino, Ramos was aware of the suspension and that he said he had already advised Respondent to go to the DMV to have the suspension removed. Tolentino said that when he interviewed Respondent regarding his license being suspended on January 31, 2011, Respondent said

that he never received the notices that his license had been suspended. Tolentino did not recall if he asked Respondent if he had spoken to Ramos.

Tolentino acknowledged that he reviewed the accident report in connection with the incident on January 31, 2011, and he took steps to obtain the recordings between [REDACTED] and Respondent's insurance company. He also showed [REDACTED] a photo array of Respondent.<sup>2</sup> Tolentino said that he met up with [REDACTED] outside of Harlem Hospital and interviewed him concerning the incident. He showed [REDACTED] the photo array "just to make certain [they] were speaking of the same individual" with whom [REDACTED] was involved in the accident. Tolentino indicated that [REDACTED] identified Respondent out of that photo array.

Tolentino explained that the Report of Motor Vehicle Accident (MV104) (DX 6) was the form that [REDACTED] left the scene with after exchanging information with Respondent. A member of the Department had filled out the report and provided it to [REDACTED]. Tolentino indicated that it appeared that the member of the Department obtained the information from [REDACTED]. On the report, [REDACTED] [REDACTED] is listed as Driver One and Sean Robinson is listed as Driver Two.

Tolentino indicated that in the transcript of the interview between [REDACTED] and Respondent's insurance agent, [REDACTED] told the insurance agent that the other motorist's name was Sean Robinson (DX 6). Tolentino said that it was [REDACTED] who filed the claim.

Tolentino indicated that as part of his investigation into allegations against Respondent, he obtained a copy of the Order of Protection from Manhattan Supreme

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<sup>2</sup> DX 6 consists of one copy of a photo array, two copies of the Report of Motor Vehicle Accident (MV104), and a 13-page transcript of a conversation between [REDACTED] and Respondent's insurance company.

Court issued by Judge Dawson (DX 7). This Order of Protection was issued after the conclusion of the first case and is valid until August 13, 2014. Tolentino indicated that the order prohibits Respondent from carrying firearms. The criminal case that Judge Dawson presided over was adjudicated in contemplation of dismissal on December 9, 2009 and "there is currently an open criminal case in Dawson's part."

On cross-examination, Tolentino testified that he first began investigating Respondent in 2006 and he has met with Person A numerous times between 2006 and 2012. He indicated that, to his knowledge, there has not been an occasion during those six years in which Person A has varied in what she was alleging against Respondent. The last time that Tolentino saw her was at Manhattan Criminal Court, on the day her [REDACTED] was finalized.

Tolentino [REDACTED]

[REDACTED]

[REDACTED]

Tolentino testified that he has seen Respondent's children, but he has not personally interviewed or spoken to them. Tolentino indicated that during his investigation, he did not have the opportunity to review Respondent's financial situation, nor did he have anyone else from the Department review Respondent's financial situation to see whether there was "any type of potential problem" stemming from his financial problems. Tolentino acknowledged that there were a number of charges against Respondent involving him not paying tickets and rent on certain properties and locations.

Tolentino agreed that he had the opportunity to interview Respondent on several occasions, during which time Respondent indicated that a number of problems that had

arisen and resulted in charges against Respondent were due to dealings with Person A

Tolentino said that Respondent had expressed that he and Person A had arguments over financial issues and visitation rights. Tolentino acknowledged that Respondent had expressed during his official Department interviews that he wanted to keep in close contact with his children and to be involved in their lives.

Tolentino testified that no integrity tests were conducted with Respondent as the target, but there were instances where he had to follow Respondent or know his whereabouts. He explained that there was a period of time when Respondent had a suspended driver's license and observations were done to see if Respondent was driving a motor vehicle when he should not have been.

Tolentino acknowledged that, as a supervisor at the Transit Bureau Investigations Unit, one of his responsibilities is to review the status of the driver's license of each individual member of the unit every year to ensure that the members have valid driver's licenses and that their cars are registered and insured. Respondent was assigned to the Brooklyn Court Section at the time that Tolentino performed observations of Respondent. Tolentino spoke with Ramos, who told Tolentino that he was aware of the suspended license and Ramos had instructed Respondent to have the suspension cleared. Tolentino indicated that the license was suspended because of a lapse in insurance, and not because of a failure to pay summonses. As to which car the lapse of insurance involved, Tolentino denied that it was for the car that Respondent was paying for but was operated exclusively by Person A. Tolentino said that there were numerous lapses of insurance coverage throughout the course of the investigation, but some of those lapses that resulted in the 2009 license suspensions involved a 2007 Kia operated by Respondent.

When asked if it was “solely a financial issue that [Respondent] didn’t have the money to pay his car insurance,” Tolentino said, “I don’t know why it wasn’t paid it just wasn’t paid.” Tolentino acknowledged that the lapse of insurance was because Respondent failed to maintain his premium, but he was not certain if Respondent was paying child support and maintenance to his estranged wife and children at that time. He acknowledged that he did not direct Respondent to any financial counseling services offered by the Department to see if it could alleviate his problems. He said that Respondent was directed to the Domestic Incident Education Program as a result of his domestic issues, “which hopefully would alleviate some of those other issues that he was experiencing.” Tolentino acknowledged that he was not aware of all the aspects of the Domestic Incident Education Program and whether it deals with financial problems. He further acknowledged that during the three official Department interviews he has conducted with Respondent in the last six years, he has not suggested that Respondent seek financial counseling.

Tolentino indicated that Respondent was declared a scofflaw for failing to pay tickets, but he did not know the number of tickets “off the top of [his] head.” When Tolentino closed out Respondent’s case at the end of 2011, he said that Respondent still had outstanding tickets.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

T [REDACTED]

[REDACTED]

Sergeant Debbie Graves

Graves, a 12-year member of the Department, has been a sergeant in the Transit Bureau Investigations Unit (TBIU) for approximately four months. She was previously assigned as a sergeant investigator in the Criminal Justice Bureau Investigations Unit, and she investigated cases of misconduct. Graves testified that she investigated three cases involving Respondent; the first involved a suspended license; the second involved the failure to pay rent to a landlord; and the third involved an automobile dealership.

Graves stated that Respondent's landlord, [REDACTED] rented a property in [REDACTED] New York to Respondent on or about January 2011 for \$3,300 a month. Graves learned that Respondent became involved in a dispute over the lack of payment for the rent every month. She interviewed [Landlord] in person, and she received copies of a returned check on a closed account in the amount of \$3,300. This prompted Graves to subpoena Respondent's bank statements from JP Morgan Chase Bank (Chase Bank).

Graves said that because [Landlord] resided in Antigua, Respondent made arrangements to deposit the monthly rent money into [Landlord] Citibank account. In February 2011, a check was deposited into [Landlord] Citibank account in the amount of \$3,300, and it was returned from a closed account (DX 8 is a copy of the check). Graves indicated that this check was issued by Richardson, was made payable to [Landlord] and was unsigned.

Graves interviewed Respondent in August or September 2011 regarding the check. During the interview, Respondent explained to Graves that he was unaware that the account was closed, but he knew that he had insufficient funds in that account to cover the check when he wrote it. Respondent told Graves that he had family members who were going to give him money within 24 hours to cover the face value of the check, but the family members "did not come through for him." When Graves asked Respondent if he made any effort to stop payment on that check, he responded, "No."

As part of her investigation, Graves also collected copies of e-mails between [Landlord] and Respondent. She could not recall if Respondent admitted to knowing that the check was "not a good check" but he did speak to [Landlord] contacted Respondent to let him know that the check was returned on a closed account and Respondent promised [Landlord] that he would give him \$6,600 for the following month, March. Graves acknowledged that she did not learn whether that the amount of \$6,600 was subsequently deposited. She noted that Respondent vacated the premises in September 2011, in excess of six months after the check was returned for a closed account.

With regard to Respondent's closed account, Graves spoke to a paralegal for JP Morgan Chase Bank, Mr. Cambridge. Cambridge told her that every customer received a pamphlet with the rules and regulations for accounts (DX 10). If an account has no activity in a 30-day period, the account is closed. According to Graves, Respondent acknowledged having received the same pamphlet. Graves said that the last activity on Respondent's account was in August 2010.

Graves testified that Respondent wrote an additional check that was drawn on the closed account: a check issued to Planet Motors in the amount of \$1,500 for the purchase of a 2001 Audi TT (DX 9). Graves interviewed [REDACTED] an employee of Planet Motors. [REDACTED] dealt with Respondent on the purchase of the vehicle. For the \$2,500 down payment, Graves was told that Respondent gave [REDACTED] \$1,000 in cash and a check for \$1,500. Graves learned that the check for \$1,500 was returned on a closed account. When Graves interviewed Respondent, she said he acknowledged that he did in fact write and sign the check. Respondent explained to her that he was going through "some financial problems about the same time he wrote the check." According to Graves, Respondent was aware that he had insufficient funds at the time that he wrote the check, but he maintained that he did not believe that his account was closed at that time. Graves was told by [REDACTED] that he contacted Respondent in regards to the returned check, but Respondent told Graves during the interview that he was never contacted by the dealership in regards to the check.

Upon questioning by the Court, Graves indicated that there were no deposits made to the account between the two checks written on February 19, 2011 and February 25, 2011. Graves stated that according to her subpoena records, Respondent's account was closed for inactivity in August 2010. She clarified that the inactivity meant that there was "no money at all" in the account.

Graves stated that she obtained bank records from Respondent's Chase Bank account (DX 10) through a subpoena from the Legal Bureau.

Graves testified that she also investigated Respondent regarding the suspension of his driver's license. Around June 2011, she received a case from the Internal Affairs

Bureau (IAB) as a result of Tolentino “call[ing] in a log” stating that Respondent’s license was suspended. When Graves conducted a FINEST license check, she learned that Respondent’s license was suspended due to a lack of insurance on the 2001 Audi TT. Graves said that when she interviewed Respondent, he said that TBIU notified him a week prior that his license was suspended, but he was unaware that it was suspended. Graves was told by Respondent that he knew that his insurance had lapsed and that the plates on the car were returned to the dealership. She indicated that Respondent did not have any receipt or recollection as to who he returned the plates to. Graves said that, as far she knew, Respondent did not resubmit payment for the \$1,500 owed to Planet Motors.

On cross-examination, Graves acknowledged that [Landlord] took Respondent to court to retrieve the rent money, but she did not know the outcome and whether Respondent paid back the money. She indicated that she has not followed up nor spoken to [Landlord] and she did not know if they reached a resolution amongst themselves concerning the rent.

Graves said that Chase Bank closed Respondent’s account due to inactivity. She agreed that Respondent kept a balance below what was needed to pay the monthly fees. As to whether Chase Bank sent Respondent any notices that they had closed the account, Graves pointed out that, according to the pamphlet (DX 10), the bank did not have to send any documentation. That was part of the stipulation of the rules of Chase Bank in the pamphlet given to account is first holders when an account is first opened. Graves acknowledged that Respondent’s account was a checking account, but she did not know if it came with a debit card. She only reviewed his bank account records and not his

ATM card. Graves calculated that six months had elapsed between the time the account was closed due to inactivity and the time that Respondent wrote checks on the account. She said she did not know if there was any contact from Chase Bank during that time period regarding Respondent's "banking relationship" with Chase Bank.

Graves indicated that she did not know Respondent's financial situation and whether he had the financial means to pay for the house where he and his family were living. She last spoke with [Landlord] when she received the case in May or June 2011. Graves believed that Respondent was still living there at that time because they were still going "back and forth" to landlord-tenant court. She said that according to [Landlord] Respondent was not paying rent at that time. She acknowledged that she did not check [Landlord] account to verify if he was receiving money from a non-Chase account to pay for the rent. She said she interviewed [Landlord] and she interviewed Respondent, who told her that he did not pay rent to [Landlord]. She indicated that she did not follow up to see whether Respondent was going to pay.

As to the Audi, Graves said that she heard it was taken by the Sheriff Department for unpaid parking summonses, but she did not know when this occurred. She agreed that when one does not have the money to pay for tickets, one is designated a scofflaw; the case is referred to the sheriff; and the automobile is repossessed.

On redirect examination, Graves agreed that [Landlord] communicated to her that he knew Respondent was a police officer.

Sergeant Sondra Duncanson

Duncanson, a 20-year member of the Department, has been assigned to TBIU for one month. She was previously assigned to the Criminal Justice Bureau Investigations Unit, where she investigated a matter involving Respondent. She noted that prior to the investigation, she had met Respondent in the mid-1990s when they had attended the same church and he had dated her cousin "for a moment." She indicated that she has not maintained any sort of personal contact with Respondent after that relationship in the mid-1990s, and she did not have any sort of personal contact with him while she was investigating him.

Duncanson said that her investigation of Respondent entailed the loss of Department property: Respondent's vest, gun belt, handcuffs, some ammunition, and the Patrol Guide. Duncanson learned that the Department property was placed in a storage facility and they were sold in a public auction because Respondent "never paid the bill." She indicated that Respondent was aware that these items were sold for auction. When she interviewed him, Respondent told her that the day that he went to pay the bill, his property was auctioned off. Duncanson said she asked Respondent if he was able to retrieve the items that he placed in storage and he told her that he was not able to. He had made an attempt to buy the items back from the person who won the auction, "but to no avail."

According to Duncanson, an IAB log was generated when Respondent reported the loss to IAB. Duncanson said that the property was lost in April 2009, but Respondent did not report it in until July 2009. Shortly after IAB was notified, Duncanson received the case. She agreed that there is a requirement for members of the Department to notify

their Commanding Officers when Department property is lost. She indicated that Respondent did not promptly notify his Commanding Officer that the items in his storage unit had been auctioned off.

Duncanson said that she interviewed one of the owners of the storage facility, who said that numerous letters were sent and phone calls were made to Respondent, but there was no response. She said that Respondent, in his interview, did not acknowledge receiving such notifications.

On cross-examination, Duncanson acknowledged that she did not attempt to contact the person who purchased the belongings from Respondent because the storage facility did not give out that person's name. She also did not ask Respondent for the person's name. She said that there was a third person involved, whom Respondent described as "a friend who is like the go between to the person who won the lot." She did not ask Respondent for the name and contact information of this friend because it was three months after the property was sold.

With regard to why the storage unit was auctioned off, Duncanson explained that the storage facility gives a person a certain amount of time to pay his or her bill. If there is no response from the person, the storage facility auctions off the lot in order to have space available for people to come in. Duncanson believed that this provision was in the contract that the person signs.

When Duncanson interviewed someone at the storage facility, she was told that Respondent "made the first deposit it was a small fee and then he never came back." Duncanson indicated that Respondent's belongings were in the storage unit for 30 days before they were auctioned off. She clarified that the first month of storage is free, and

the storage facility was trying to get their money going into the 60<sup>th</sup> day. She acknowledged that she was not aware of how long in total Respondent's belongings were stored in that facility.

Duncanson indicated that she did not know if any of the Department property was recovered or if any of the property was turned in by anyone.

Duncanson agreed that the vest had a serial number on it. She said that the handcuffs would also have a serial number assigned to them, provided they were the ones issued by the Department and not purchased at a store. Duncanson said that she was unsure if the Patrol Guide that was lost was the one issued to Respondent or one that he purchased on his own. She said that she was told that it was Department property that was lost. She disagreed that the vest could theoretically have been a non-Department issued vest. She said she did not know if one could buy a vest since she has never tried to. She acknowledged that one could independently purchase a gun belt, magazine holder, ammunition and mace. She said that if the lost property was purchased outside the Department and not issued by the Department, it would not have to be reported. With regard to how she knew that the lost property was Department property, Duncanson said, "That is what was reported to IAB, Department property. That is what [Respondent] reported Department property."

Sergeant Aramus Jeanty

Jeanty, a 13-year member of the Department, has been assigned to IAB for approximately one and a half years. Jeanty testified that IAB had received a complaint from Person B who stated that he was engaged in a dispute over money with

Respondent. Jeanty interviewed Person B who told him that Respondent owed him approximately \$960. Person B was the owner of a pizza store on Queens Boulevard, adjacent to where Respondent worked at the time in the Queens Court Section. Person B was aware that Respondent was a police officer because Respondent would often come to the pizza shop in full uniform for lunch. They developed a relationship because the Respondent came by often to have lunch. According to Jeanty, Person B said that over the period of time that Respondent would come to the pizza shop for lunch, Person B saw that Respondent had a worried look on his face. When Person B inquired as to what Respondent was stressed about, Respondent stated that he was experiencing financial problems. Jeanty agreed that Person B specifically stated that he handed Respondent money.

Jeanty said that during his official Department interview, Respondent stated that he had borrowed money from Person B but he said it was approximately \$300. Respondent said that he had paid back \$150, but he still owed Person B \$150. Jeanty indicated that Patrol Guide Section 203-15, sub paragraph 12 prohibits members of the Department from accepting money while in uniform in the area where they work.

On cross-examination, Jeanty denied that the money was given to Respondent to ensure that he keep a closer eye on Person B establishment or that the money was given based on some coercive act of Respondent toward Person B. Jeanty acknowledged that Person B freely gave the money to Respondent and that the money was not solicited by Respondent.

Jeanty explained that he first learned of the incident when a Port Authority lieutenant notified an IAB liaison, and the case came in through IAB. Jeanty

acknowledged speaking to the lieutenant from the Port Authority. The lieutenant told Jeanty that he became aware of the incident through Person B. Jeanty acknowledged that he did not ask the lieutenant if he ever received any money or gratuity from [REDACTED] while he was in the location. The lieutenant came into the pizza shop to have lunch, but Jeanty could not recall if he would do so in uniform.

Jeanty said that, as far as he knew, Person B pizza shop was not an off-limits location and members of the Department were free to eat there. He acknowledged that he "probably" said during Respondent's official Department interview that this allegation could be adjudicated and result in a Command Discipline.

#### Respondent's Case

Respondent testified in his own behalf.

#### Respondent

Respondent testified that he was appointed to the Department on July 1, 2004, when he was 36 years old. He had previously worked as a legislative director for two years in the office of New York City Council member Sara Gonzalez; worked as a legislative intern for Council member Gail Brewer; and attended Columbia University. Respondent said that when he completed the Police Academy, he was assigned to the Citywide Impact Task Force which turned out of Transit District (TD) 32 in Brooklyn from January to August 2005. He was then assigned to TD-32 from August 2005 to the spring of 2006, when he was transferred to the Vandals Squad (Vandals) of the Transit Bureau Special Operations District.

Respondent said that when he was appointed to the Department, he was single, but by the time he was assigned to Vandals, he was married to Person A. He and Person A met in church in 1997 and they were married on July 11, 2005. They have a [redacted] year old son and [redacted]-year-old daughter together. Respondent indicated that he has been divorced since February 2012. The divorce proceedings were initiated in November 2011 and finalized in February 2012. Respondent testified that there is still a pending matter in court pertaining to the [redacted]. His next scheduled court date was June 25, 2012. He said that he hoped to have shared custody of the children.

Respondent indicated that during his marriage to Person A he had been arrested four or five times. The first arrest occurred in spring or early summer of 2008, when he was assigned to Vandals. At that time, Person A's brother had passed away. Respondent said that Person A and her family were going through a "tumultuous time and it spilled over into [their] marriage." He said that Person A took their children to her mother's house and she indicated to him at that time that she was going to file for divorce.

Respondent said that one day, he and his parents were leaving Family Court and they tried to talk to Person A to "ask her to calm down and be reasonable." He said that, in response, she said she was going to go downstairs to file for an Order of Protection. Respondent expressed that they were "dumbfounded" because they were trying to reconcile, but Person A filed for the Order of Protection. Respondent said, "[W]e didn't know that she filed for an Order of Protection and then I think the job notified me that there was an Order of Protection in [e]ffect."

According to Respondent, they went to Family Court and the Order of Protection allowed for contact incidental to visitation with the children. He said that the incident

involving the message that he left on Person A voicemail occurred because there was a time that he was supposed to pick up the children but he was unable to because he was doing overtime. Respondent said he called Person A to let her know that he was unable to pick up the children. He told her: “[T]his is part of the problem, this is why we need to talk and not allow the system to tell us when and how we are going to handle our children.”

Respondent said that Person A told him that Tolentino contacted her and asked her if she had heard from Respondent. When she told Tolentino that she had heard from Respondent regarding the children, Tolentino asked to hear the message, which she then played for him. According to Respondent, Person A was unaware that the message was being recorded by Tolentino. Respondent was subsequently arrested for making contact with Person A. He said that this first arrest was resolved with an adjournment in contemplation of dismissal and the case was ultimately dismissed.

Respondent indicated that the primary causes of the arguments between him and Person A were financial issues. He said that Person A was not working when the financial arguments started, as she took a year off from work after the birth of each child. He said that when they first were married, they lived at [REDACTED] in Manhattan. They lived there for approximately one year together and then Person A moved out. Respondent remained there for nine or 10 months after Person A left. During their separation, Respondent said that he stayed at his parents' house and at several places with friends. He tried to rent a place of his own, but he ultimately stayed at his parents' house.

Respondent said that when Person A moved out, she left "everything, things belonging to [their] children, things that belonged to her." When Respondent moved into

his parents' house, he had to place these items in a storage facility on Flatlands and Louisiana Avenue in Brooklyn. He acknowledged that the contents of the storage unit were auctioned off due to failure to pay the storage fee. He explained that while he was dealing with the storage matter, he was also dealing with paying for legal representation in the criminal and family matters. He said that he was assigned to the Queens Court Section at the time and he had been suspended for 30 days. He was "dealing with a lot financially" and fell behind in the storage payments. He noted that on the day that he was able to obtain money to bring the storage payments up to date, he went to the storage facility. There, he was told that he was a few minutes late and he had just missed the auction of his belongings.

Respondent acknowledged that the storage unit contained some of the Department property that he was issued as part of his assignment as a police officer. He said that when he was suspended from the Department, Vandals was located far from where his parents lived. He did not have an opportunity to go over there, so the items that he did not use on a daily basis were put in storage once he was assigned to Queens Court Section. He explained that he was suspended for 30 days for violating the Order of Protection, and then he was placed on modified assignment. When he was returned to full duty status, he was assigned to Queens Court Section.

Respondent agreed that he fell into a more serious financial situation while he was on suspension. He said he tried to maintain the apartment that was their marital home, but he was unsuccessful. He tried to pay for a family lawyer and a criminal lawyer, but he said "it just was impossible to maintain" because he had lost 30 days of pay due to the suspension.

Respondent said that, during that time, he and Person A shared a white Jeep Commander. He acknowledged that Person A had accumulated a number of traffic summonses and he said that it was part of the “financial challenge” that they had when they were together. Respondent said that he found out from Tolentino that he was designated a scofflaw by the New York City Department of Finance and the Traffic Violations Bureau due to the accumulation of the summonses. Respondent said that he had financed and registered the vehicle in his name because he had stronger credit than Person A did, but Person A primarily used the car for herself and the children. He indicated that she was not making any payments on the vehicle. If the tickets accumulated and were unpaid for, Respondent said that it “fell on [him].”

Respondent agreed that when Tolentino informed him of the scofflaw status, it also came to light that Respondent failed to maintain a current registration and insurance because of the lapse in payments due to his financial difficulties. Respondent said that he tried to take care of those problems with the help of his family. He made amends with some of the tickets, but the problem continued to “snowball” as tickets were not being paid.

Respondent said that in 2009, Person A indicated to his family that she wanted to come back and reconcile with him. Respondent and Person A went to court and she withdrew her divorce action. They both told the judge that they were going to go to marriage counseling and that they did not want an Order of Protection. Respondent said, “[T]he whole order of protection matter was fictitious from the beginning so Person A said she didn’t want the order of protection.” Respondent said that the judge stated on the record that she was not supportive and she left a limited Order of Protection in place to

not harass or annoy Person A. Respondent indicated that he and Person A still got back together in 2009 and rented a home together at [REDACTED] in Manhattan.

In September 2010, Respondent said that he was supposed to pay his rent on a particular day, but on that day he was stuck at work. Respondent contacted the landlord to tell him that he would not be able to make it that evening but he would be able to see him the next day. He said that the landlord called his home and left a "very nasty" message on his home phone. Respondent said that Person A heard the message and called Respondent to say that she was very upset about the message. On the next day, when Respondent went to the landlord's house, the landlord apologized to him. The landlord explained to him that he had borrowed money thinking that he was going to receive the rent. Since Respondent did not pay the rent on the day that he had originally said he would, the landlord was unable to pay back the person that he had borrowed money from. When Respondent gave him the rent money, the landlord apologized and "that was the end of it."

Respondent told the landlord to contact Person A and apologize for leaving the message that had upset her. Respondent said that the landlord did not call Person A but according to the landlord, she reached out to him (the landlord) and told him that she was going to leave Respondent. Respondent then spoke to Person A and told her: "[I]f you are going to leave me I am not going to go through what we went through in 2007 and 2008 just do right by the children...." Respondent indicated that "that's where [they] left it."

On October 1, 2010, Respondent and Person A drove their children to school and dropped them off. As Respondent was driving Person A to the train station, he mentioned the upcoming holidays to her. He told her that if she was going to leave him, they should

discuss how they would handle the children. Respondent said that he had never spent a Christmas or Thanksgiving with their daughter and he only spent one Christmas and Thanksgiving with their son, and his family had never seen the children for the holidays. Respondent said that Person A "flew off the handle" and said that they did not need to talk about the holidays but that they needed to talk about where and how they were going to live. Respondent said that her statements were confusing to him because Person A had expressed that she was going to leave but they were getting into any argument again about money.

Respondent said that when they arrived at the train station on the corner of 125 Street and 8 Avenue, he exited the car and told Person A that he was not going to argue with her and that she had to go to work. Respondent told Person A that she had to go to work because he had to go back home and do some things before going to pick the children, who had a half day of school. He said that Person A exited the car and said, "[N]o, I am going to have you arrested." Person A then flagged down the first Radio Motor Patrol vehicle (RMP) that she saw. Respondent said that the RMP contained a patrol supervisor, who separated Person A and Respondent. The patrol supervisor asked Person A what the problem was and whether Respondent was harming her or preventing her from moving. She said, "No." According to Respondent, the patrol supervisor asked Person A why she did not go to work and she said it was because Respondent was a police officer. Respondent stated, "Once she says I am a police officer the patrol supervisor has to take action they subsequently take us to the precinct and it snowballs from there and ultimately I am arrested."

Based on that arrest, Respondent was required to appear in court on January 27, 2011. He said that on that date, there was a "humongous" snowstorm. At the time, he had moved from [REDACTED] to [REDACTED] and the LIRR was not working that morning. He had contacted his attorney, Robert Anthony Evans, who told Respondent that to the best of his knowledge court would not be session due to the snowstorm so Respondent did not have to appear. According to Respondent, Evans said that he would try to get to the court house later that day to find out what the adjournment date would be and he would get back to Respondent.

Respondent stated that the following Wednesday<sup>3</sup>, he went back to work. As soon as he arrived at work, his platoon commander informed him that TBIU needed to interview him regarding a matter. Respondent explained that, at that time, he was working at the Brooklyn Court Section, which was located several blocks from the Transit headquarters. Upon his arrival at Transit headquarters, Respondent was arrested and suspended for the bench warrant that was issued on January 27, 2011, the day of the snowstorm. He denied that he spoke to or got into an argument with the Commanding Officer (CO) of the Transit Bureau Investigations Unit, Captain Rosendo Velez, at Transit headquarters.

When questioned by the Court, Respondent indicated that he was not totally familiar with bench warrants, and he explained that he worked a variety of posts at Brooklyn Court Section, sometimes in the cell area, Early Case Assessment Bureau (ECAB), or in the courtroom.

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<sup>3</sup> January 27, 2011, the date that Respondent did not appear at court, was a Thursday. The following Wednesday would have been February 2, 2011.

Respondent said that in April 2011, Person A was still Person A and she wanted to continue to live with him and have a “clandestine” relationship with him, but she had an Order of Protection “over his head.” Respondent said that if he never complained, Person A probably would have been with him today but she came to the house with her mother’s boyfriend, saying she wanted to get some things for the children. Respondent said that Person A attacked him in his home and then left.

Respondent contacted the [REDACTED] County Police Department to inform them of the incident. Respondent said, “As a result of me contacting the [REDACTED] County Police Department I was arrested because they said I should not have let her in the home that letting her into the home was a violation of the order of protection so that’s when I was arrested in April.”

After he was arrested in April, Respondent said that Tolentino came to his home one day and told him to appear at the precinct on a weekly basis because of an issue with his waiver. Respondent noted that barely five minutes after Tolentino left his home, he received another call from a lieutenant from TBIU, whose name he did not remember. According to Respondent, this lieutenant told him that there was an issue with his waiver, but the waiver was found so Respondent did not have to report to the precinct. Respondent asked this lieutenant several times if he was sure because Tolentino had just left his house. According to Respondent, the lieutenant’s “exact words were no, you don’t have to I was with Captain Velez this morning and the issue was that we couldn’t find it but now we found it so you do not have to report to the precinct and so you know, you follow the last order you are given so I did not report to the precinct.”

Respondent said that on the day that he did not report to the precinct, he received a call at home from Velez that evening. Velez asked why he did not report. Respondent conveyed to Velez that he was told not to report, that he was given conflicting orders, and that he followed the last order given. Respondent said that he had expressly asked the lieutenant several times if he was sure about him not having to report. "That's when Captain Velez and I had the exchange of words. I was that's what happened with the incident with Captain Velez," said Respondent.

Respondent testified that since the time he was first arrested, he has been suspended four times for a total of 420 days. He acknowledged that he has been on modified or suspended duty since 2009. As to the amount of wages that he has lost during that time period, Respondent said, "I can't even estimate." He stated that prior to the incidents, he had a very good career and he was looking forward to possibly becoming a detective or getting promoted. He further said, "When you think of all of that, when you think of overtime wages you know, a lot was lost, a great deal was lost. Not just monies, a great a wealth of relationships that I worked in, guys that I worked with, a lot was lost since 2008, 2009."

Respondent pointed out that keeping his family together and being a father to his children are his main focus. He was raised without a father in the home so it was very important for him to be in his children's lives every day. He said that in June 2012, it would be a year since he has seen his children. He has made repeated attempts in court to see his children, but there is a full stay away Order of Protection in place. Respondent said that based on what he has been through and how it has been handled "within the

job," he has to be careful until the Order of Protection is vacated or modified. He has not seen his children in a year because of what he has termed a very precarious situation.

On cross-examination, Respondent acknowledged that he had left the voicemail message on Person A phone moments after he left the courthouse. He disputed that the extended Order of Protection prohibited him from contacting Person A. He said that the Order of Protection allowed for contact incidental to the children and that he could contact her with regards to visitation. He acknowledged hearing the recording where he stated that he did not care what the courts had to say and that he wanted this settled.

With regard to the white Jeep Commander that he was driving in January 2011, Respondent said that he did not know at the time that his license was suspended. He acknowledged that, based on what he was told by TBIU, his license was in fact suspended at the time.

As to why he told The motorist that his name was Sean Robinson, Respondent stated, "That was ridiculous to me I told him my name was Steven Richardson." He said that when the police showed up, he and The motorist gave their driver's licenses to the police, and he believed that the police were the ones who gave each person the other person's respective information. Respondent explained that prior to the police arriving, his initial conversation with The motorist was why [REDACTED] hit his car. He said that they agreed to call the police because they could not agree on whose fault the accident was. He denied dictating his information to The motorist and not showing him his driver's license.

Respondent acknowledged that the Department is a paramilitary organization and that his captain has the right to order and direct him to do certain things. He further acknowledged telling Velez to "get a life" when he called Respondent. Respondent said:

[I]t's a very logical explanation in that I was in the middle of being suspended for the third time my children were taken away from me yet again the job was treating me extremely heavy handed, I am getting conflicting orders he calls me in my home and actually at that time my father in law my step dad was in the hospital and we were told it might be cancer so a lot of things were going on at the time and there were no empathy there was no sympathy there was no understanding and it seemed odd to me that he would call me that time of evening and I am explaining to him your lieutenant said I heard two different orders and there was literally no understanding on his part I was going through a great deal at that time.

Respondent denied hanging up the phone on Velez because he was angry, but he stated that he hung up the phone because he was hurt as a result of the conversation.

With respect to the checks that he wrote, Respondent acknowledged that he had expected to receive money to cover those funds but he did not receive that money. He also acknowledged that he did not get the money needed to cover the checks. When asked why he did not try to stop the check Respondent stated:

Again I what I attempted to do with those checks I have done several times in the past. [REDACTED] the time not getting a car note our car was repossessed and the way my parents were able to deposit monies into that same account for me to get the car back so I have done that numerous times so when the money didn't come I immediately contacted my landlord at [REDACTED] and told him what the challenge was the money was never deposited and the he and I would need to meet so we could rectify it. He came up from Antigua I believe he was staying in we met in our home we agree we talked about how we would work things out I explained the whole situation between my wife and he was very understanding, very empathetic and we agreed going forward that we would try to work it out.

Respondent said this occurred in March or April but he did not remember exactly when. Respondent moved out in September. When asked if Respondent paid the landlord any money from March to September Respondent stated:

Certainly, certainly. We my family came together I was able to borrow some from the pension fund and I sent him a payment. I had written out a lengthy agreement that I would hope he would have agreed to and we sent him some money, deposited some money into his Citi Bank account.

Respondent acknowledged that the monthly rent he had agreed to pay for that property was \$3,300 per month Respondent agreed that from March to September is seven months of rent (\$23,100). He acknowledged that he was not able to come up with the whole amount.

When asked why he did not stop payment on the check to the car dealership, Respondent gave the following explanation:

Well, the car dealership was an interesting matter because the car dealership when I purchased the car from them from the time I purchased the car we had a great many challenges with the car and they kept sending me back to their mechanic so that amount was actually disputed because the car from the time I purchased it the check engine light stayed on so I ultimately had to put out monies to get the check engine light off so that is how that is disputed because they sold a car that wouldn't normally pass inspection so I would up having to pay along and I told them that based upon that you know that's why they didn't get that money it wasn't a matter of it was a matter they basically almost sold me a lemon.

On questioning by the Court, Respondent acknowledged that he wrote them a check.

Respondent acknowledged that he now understood that accepting a loan from a merchant who owns or works in a business located in the confines of his command is prohibited. He also acknowledged that he received a loan from Person B

On questioning by the Court, Respondent stated that the bench warrant had been issued on January 27, 2011. He said the first time he learned of the warrant was when he

“swung back into work” the following Wednesday. Respondent said the he had been working at the Brooklyn Court Section at the time but was not totally familiar with warrants.

### FINDINGS AND ANALYSIS

This disciplinary trial encompasses nine different disciplinary cases,<sup>4</sup> each with multiple specifications covering a period from June 2008 to January 2011.

#### I. Disciplinary Case No. 2008-0180

This is the first disciplinary case and it has three specifications. The first specification alleges that on or about June 23, 2008 Respondent violated a valid New York County Family Court Order of Protection.

A Family Court Order of Protection was issued against Respondent ordering him to stay away from Person A and not to communicate with her. The order was issued on April 7, 2008 and indicated that was in effect up to and including June 23, 2008. On June 23, 2008 the order was re-issued and extended to September 23, 2008.

On June 26, 2008, Tolentino called Person A on the telephone. That call was recorded and is in evidence, (DX 1 is the digital recording of that call, DX 1A is a transcript). During the call Person A indicated that she went to Family Court on that Monday and that Respondent was present and had attempted to get the order dropped.<sup>5</sup> She indicated that the order had none the less been extended including the “no contact” provision. She noted however that a change had been made allowing visitation to be

<sup>4</sup> One of the disciplinary cases originally scheduled to be tried with the other nine was deferred and not litigated at this time.

<sup>5</sup> This Court takes note of the fact that June 23, 2008 was a Monday.

arranged through the maternal grandmother. She noted that he was again told in court not to contact her.

**Person A** further indicated that when she got out of the train at 153 Street and 8<sup>th</sup> Avenue she turned on her cell phone and there was already a message from Respondent.

**Person A** had saved the message and she was able to play it back during the phone conversation with Tolentino. That message is therefore part of the audio recording and transcript of the conversation in evidence.

In his testimony, Respondent acknowledged the existence of the Order of Protection and his knowledge of it. His position was that he had done nothing wrong because the order permitted contact incidental to visitation.

The Department placed in evidence the original April 7, 2008, Order of Protection, (DX 2). After reviewing the testimony, the Court reopened the case and on consent of both sides received in evidence the extended order issued on June 23, 2008 (Court Exhibit [CX] No. 1).

Both orders have as their first section a "stay away" provision which provides that Respondent is to stay away from **Person A** and the order further directs that "RESPONDENT IS TO HAVE NO CONTACT WITH THE PETITIONER."<sup>6</sup> This last admonition is all in capital letter, obviously to emphasize the point.

The extended order of June 23, 2008 contains several provisions that do not appear in the earlier order.

The next to the last section deals with visitation. It permits Respondent to have visitation with his daughter, [REDACTED] son, [REDACTED] on Wednesdays from 5PM to 8PM

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<sup>6</sup> The petitioner in that case is named as **Person A** and the respondent in that case is identified as the Respondent herein.

and on Saturdays from noon to Sunday 3PM. It further notes that All Pick "UPS AND DROP OFFS SHALL OCCUR CURBSIDE AT THE HOME OF THE MATERNAL GRANDMOTHER AT THE HOME OF MATERNAL GRANDMOTHER ... THE FATHER MAY CONTACT THE MATERNAL GRANDMOTHER IN CONNECTION WITH ANY WORK RELATED ISSUES, (emphasis as in original).

The last section of the order reads in pertinent part: "CONTACT INCIDENTAL TO VISITATION IS NOT A VIOLATION OF THIS TEMPORARY ORDER OF PROTECTION," (emphasis as in original).

While the order is not a model of clarity it would appear that Respondent's interpretation of the order that he could speak to Person A with regard to visitation appears to be a reasonable interpretation. It is also clear that any and all other contact was prohibited.

The question then becomes whether the call made was within the ambit of contact allowed by the Order of Protection. As noted, the message Respondent left can clearly be heard on the audio recording in evidence. Here is what Respondent said:<sup>7</sup>

Yeah Person A this is Steven. I'm still your husband and you and I need to talk. At this time I really don't care what the courts have to say, I don't care what my job has to say, and to be quite honestly I'm willing to go to jail for what I believe in. Better people than I have done the same thing. And my only regret is that I didn't do it sooner. I've allowed my job and now the courts to separate from me my family for over a year now, but you and I really need to talk and if you just work half as hard on staying with me as you're working on trying to separate from me we wouldn't be going through this right now. I need you and our children need their parents together. I'm telling you children that are the products of divorce are messed – they – it can really mess them up and I'm trying my hardest to work with God and let us all come out okay. So we need to

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<sup>7</sup> Respondent testified during this trial and the voice on the message is quite clearly his.

talk and like I said, I don't care. If you want to have me arrested so be it, just tell my children that daddy went to jail because he was fighting for his family. But you and I really need to talk. I've never hurt you, I've never hit you. And if you want to try to label me as a batterer so be it, but you and I need to talk and I will, you know. I will make sure that we do talk. And like I said, I don't care, call the cops. I've gotten jobs before this one; I can get one after this because it's not that serious anymore. My family is at stake right now, my children are at stake. But we need to talk. Yeah you have to do because God knows I'm going to do what I feel I have to do and I'm going to fight for my family.

There is simply no way that this message could be considered incidental to visitation. Visitation is not discussed at all. What is mentioned, several times, is Respondent's desire to speak with Person A. The specific purpose of the meeting is to discuss the relationship. There is no question that leaving this message violates the provision of the Order of Protection prohibiting contact and does not meet with any exception to that rule that may exist in the order.

Equally significant is that in his message, Respondent indicates that he knows that he is violating a court order and that he is doing so with impunity. He says this specifically when he states: "I really don't care what the courts have to say." He follows up by adding that he does not care if he goes to jail and suggests that going to jail would be somehow ennobling.

Respondent is found Guilty of Specification No. 1.

The second specification in this case alleges that on or about June 23, 2008 Respondent changed his residence and failed to notify the Department of this change as required.

The testimony on the change of address issue comes from Tolentino who testified that Respondent had been arrested and suspended. He further testified that "as a result of that" he learned that the address Respondent provided at the time of his arrest was different than that on file with the Department. According to Tolentino, Respondent had stated at the time of his arrest that his address was [REDACTED] the Bronx. Tolentino indicated that the address on file with the Department at that time was [REDACTED] [REDACTED] in [REDACTED], which is in [REDACTED] County.

In his own testimony Respondent acknowledged moving several times during the period covered by these charges. Respondent is found Guilty of Specification No. 2.

Specification No. 3 alleges that Respondent had a duplicate police shield. Tolentino testified that when Respondent was suspended in this matter he turned in a duplicate police shield. Respondent offered no evidence to contradict this. Respondent is found Guilty of this Specification.

## II. Disciplinary Case No. 2009-0235

This case contains five specifications. Specification No. 1 deals with Respondent's failure to maintain a current New York State driver's license on or about and between September 8, 2008 and January 22, 2009.<sup>8</sup> Tolentino obtained the Abstract of Driving Record for Respondent from the DMV (DX 3). These records reflect that Respondent had his license suspended on September 8, 2008 due to a lapse in insurance, and this lapse was not cleared until January 22, 2009. Tolentino noted that Respondent should have been aware of the lapse in coverage because along with each abstract he

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<sup>8</sup> There is a second period of license suspension from December 24, 2009 to April 29, 2011, which is not charged as such. In Disciplinary Case No. 2011-6478 under Specification No. 3, Respondent is charged with operating a vehicle with a suspended license on one day, January 31, 2011.

obtained from the DMV, there was an accompanying letter in which the DMV informed Respondent of the impending suspension and a letter informing him when his license was eventually suspended. Respondent is found Guilty of Specification No. 1

Specification No. 2 in this case alleges that on or about and between September 8, 2008 and January 22, 2009, Respondent failed to notify his Commanding Officer of the suspension of his New York State driver's license, as required. No testimony was offered by any of the witnesses presented by the Department that Respondent's commanding officer was not notified of this specific suspension. Respondent was not asked about the issue of whether he notified his Commanding Officer of the suspension.

The Department apparently relies on Respondent's testimony that he did not know about his license suspension to infer that he did not notify his Commanding Officer. Respondent's testimony at this trial related only to his lack of knowledge about a license suspension on January 31, 2011. There is therefore a lack of evidence, either direct or inferential, as whether his Commanding Officer was notified by Respondent that his license was suspended for the period of time set forth in this specification. Consequently, Respondent is found Not Guilty of this Specification.

Specification No. 3 in this case alleges that, on or about and between September 8, 2008 and January 22, 2009, Respondent did fail and neglect to provide the New York State DMV with a current address. As part of his investigation, Tolentino had a chance to review the notices that the DMV sent to Respondent regarding the impending suspension and eventual suspension of his driver's license. These notices were sent to Respondent's address on file at the DMV. Tolentino stated that the address on file in

2009 was [REDACTED] Tolentino believed that Respondent never changed the address he had on file with the DMV.

When Tolentino asked Respondent if his address with DMV was current, Respondent told him that "at different time periods it would have been and it wouldn't have been." Tolentino believed that Respondent said that he was just receiving mail at [REDACTED] location. Tolentino conceded that in his interviews, Respondent had said that he was residing at [REDACTED] during the time periods in which the suspensions occurred. When asked if he found that to be the truth, Tolentino said, "Yes." Tolentino stated, "[Respondent] had moved from different locations so at different time periods he ... would reside there, move out and then move back so but when these two suspensions came down it was during the period in which he was back at [REDACTED]

This analysis of this specification poses some interesting challenges. The testimony is ambiguous; Tolentino said he believed that Respondent did not change his address with DMV during the period in question. No document was offered in evidence on this specific issue.<sup>9</sup> More significant is the fact no dates for these moves was offered in evidence. This Court notes that the DMV allows thirty days for a motorist to update his or her address. Given Respondent's moving around, we do not know if he was not back at the [REDACTED] location within the notice period. More importantly it is unclear that Respondent abandoned the [REDACTED] residence. It is a well known legal fact that person may have more than one residence (but only one domicile). The

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<sup>9</sup> The DMV abstract does list only the [REDACTED] address but it covers a period of time and we do not know if there were changes during the period covered that are not reflected in that document.

DMV rule requires a driver to list his or her residence. Consequently it is not clear that Respondent violated the DMV rule.

It should be noted that the DMV rule about notification and change of address are different than the Department's rule on that subject. The Department has a strong institutional and public safety need to know where members of the service are residing at all times and the notification must be immediate. This specification refers to the DMV and for the reasons cited, Respondent is found Not Guilty of this specification.

Specification No. 4 alleges that, on or about and between January 28, 2008 and April 1, 2008, and between June 11, 2008 and August 1, 2008, Respondent did wrongfully operate a 2007 Kia Sportage, [REDACTED]

[REDACTED] which was uninsured. Respondent admitted generally that there had been lapses in his insurance. However Respondent apparently owned several vehicles during the periods of time listed in this Specification.

Respondent made no specific admission as to a lapse in insurance during this time for this vehicle. Indeed while he admitted there were lapses in insurance for the vehicle [Person A] drove, he denied there were lapses in insurance for his vehicle.

The only testimony the Department offered regarding the Kia came from Tolentino however his mention of the Kia was in connection with the suspension of Respondent's license. His testimony was that the suspension of Respondent's license in 2009 involved the 2007 Kia operated by Respondent.

It may be that the lack of insurance on the Kia on the dates listed in this specification led to the suspension in 2009 but there could have been other dates where

there was a lack of insurance on the Kia that led to a suspension of Respondent's license in 2009.

There is no testimonial or documentary evidence that directly address the issue of the lapse of insurance for the Kia or dates referred to in this specification. There is thus an absence of proof that the Kia was uninsured during the periods of time alleged in this specification. Respondent is found Not Guilty of Specification No. 4.

Specification No. 5 alleges that on or about and between August 2, 2006 and April 5, 2008, Respondent failed to pay 10 universal summonses, as required. During the course of Tolentino's investigation, he checked Respondent's license plate in the Parking Violations Bureau website and determined that Respondent had numerous unpaid parking summonses. Tolentino stated that this was an issue that came up in his original case with Respondent and when Tolentino followed up on the summonses, they still appeared in the system as unpaid.

Respondent acknowledges in a general way that there were unpaid summonses and blames the situation on Person A

The problem in this specification lies is the language used. It charges Respondent with "conduct prejudicial" in that he did "fail and neglect to pay the following Universal Summonses, as required..." The specification then goes on to list 10 specific summonses. Tolentino's testimony was general in nature. He did not set forth the summonses he claimed to have found on the Parking Violation Bureau website. He did not offer a print out of the summonses and no other document or testimony set forth the summonses that are charged.

Adding to the ambiguity about what summonses Tolentino was referring to is the fact that in a later disciplinary case, Respondent is charged with five additional unpaid summonses (see Disciplinary Case No. 2011-6478) which, as will be seen similarly lack specificity. Because Respondent is charged with specific unpaid summonses and the record is devoid of evidence about those *specific* summonses the Respondent must be found Not Guilty.

### III. Disciplinary Case No. 2010-0182

This disciplinary case contains two specifications which relate to items of police equipment including a vest, a copy of the Patrol Guide, a gun belt, a magazine holder, a pair of handcuffs, mace and several boxes of ammunition that Respondent placed in storage. Because Respondent did not pay the rent on his storage facility these items were sold at auction. Respondent acknowledges the loss of this equipment and blames it on financial problems he was having at the time. He claims that by the time he got the money together and ran down to storage facility, he missed retrieving the property by only a few minutes.

Specification No. 1 alleges that “on or about and between January 1, 2009 and April 30, 2009 Respondent failed and neglected “to safeguard Department property, to wit: one (1) vest, one (1) Patrol Guide, one (1) gun belt, one (1) magazine holder, one (1) pair of handcuffs, one (1) mace, and several boxes of ammunition in that said Police Officer placed said items in storage, failed to make payments for said storage, resulting in the sale of these items.”

Respondent has admitted to this conduct and therefore he is found Guilty of this Specification.

Specification No. 2 alleges that Respondent failed to notify his Commanding Officer in a timely manner of the loss of the items of police equipment mentioned above. According to Duncanson, Respondent called IAB in July 2009 to report the Department property that was lost in April 2009. Duncanson agreed that there is a requirement for members of the Department to notify their Commanding Officers when they lose Department property and he indicated that Respondent did not promptly notify his Commanding Officer that the items in his storage unit had been auctioned off.

Notifying the Department several months after the property had sold off can hardly be considered "timely" as it denied the Department any reasonable opportunity to recover this proprietary police property.

Respondent is found Guilty of this Specification.

#### IV. Disciplinary Case No. 2011-3603

This disciplinary case contains two specifications. The first deals with a failure on Respondent's part to appear in a pending criminal case in which he was the defendant on January 27, 2011. Tolentino indicated that after his investigation of Respondent commenced, the criminal case in New York County commenced. He was monitoring the case via Web Criminal Record Information and Management System (C.R.I.M.S.) to keep up with the progress of that case. Tolentino said that at some point, he could not find the next court appearance. Consequently, he called Respondent's ICO, Ramos, to ask if he was aware of Respondent's future court appearance. Ramos made a computer

inquiry and he advised Tolentino that there was an open warrant as a result of Respondent not appearing on January 27, 2011 at New York County Court. Tolentino was not present in court on January 27, 2011, nor was he aware if any other member of the Department was present in court tracking the case on that day.

Tolentino said that Respondent was then either ordered in or he came into work on February 2, 2011. Upon his arrival at work, Respondent was returned to the court on the warrant. Tolentino said that he did not personally take Respondent to court but he was involved in preparing the Department forms for the Respondent's subsequent suspension.

Respondent explained that he did not appear in court on January 27, 2011 because of a "humongous" snowstorm. He said that at the time, he had moved from [REDACTED] to [REDACTED] and the LIRR was not working that morning. He had contacted his attorney, Robert Anthony Evans, who told Respondent that to the best of his knowledge court would not be in session due to the snowstorm so Respondent did not have to appear. According to Respondent, Evans said that he would try to get to the courthouse later that day to find out what the adjournment date would be and he would get back to Respondent.

Respondent stated that the following Wednesday, he went back to work at the Brooklyn Court Section. As soon as he arrived at work, his platoon commander informed him that Transit Bureau Investigations Unit needed to interview him regarding a matter. Upon his arrival at Transit headquarters, Respondent was arrested and suspended for the bench warrant that was issued on January 27, 2011, the day of the snowstorm. When questioned by the Court, Respondent indicated that he was not totally familiar with bench

warrants, and he explained that he worked a variety of posts at Brooklyn Court Section, sometimes in the cell area, ECAB, or in the courtroom.

It is not disputed that there was a snowstorm on January 27, 2011. However, for whatever reason, a judge saw fit to issue a warrant against Respondent in his case on that day. Respondent either did not ascertain that the warrant had been issued or simply ignored the warrant. In any event, it was never voluntarily vacated and was only involuntarily vacated six days later. This is unacceptable for anyone let alone a police officer. Respondent is found Guilty of this Specification.

The second specification in this case deals with his failure to report a change of address that occurred around February 2, 2011. Tolentino indicated that the address that Respondent had listed with the Department on or about February 2, 2011 was not the address where he was actually residing. Tolentino stated that at the time Respondent was residing at [REDACTED] in [REDACTED] and that the address Respondent had listed with the Department was [REDACTED] in Brooklyn. Respondent acknowledged that during this period of time he had moved to [REDACTED]. Respondent is found Guilty of this Specification.

#### V. Disciplinary Case No. 2011-4275

This disciplinary case has six specifications.

Specification No. 1 alleges that on or about and between February 2, 2011 and February 4, 2011, Respondent violated a Temporary Order of Protection which directed him to "stay away" from [REDACTED] Person A [REDACTED] in that Respondent was residing with [REDACTED] Person A [REDACTED]

Tolentino learned from a contact he had with officers from the [REDACTED] County Police Department that Person A had spent the night of February 3, 2011 at Respondent home. Respondent acknowledged that Person A had been with him and he stated that Person A "wanted to continue to live with [him] and have a clandestine relationship with me having an Order of Protection over my head." Respondent said that if he never complained, Person A probably would have been with him today but she came to the house with her mother's boyfriend, saying she wanted to get some things for the children. Respondent said that Person A attacked him in the home and then left (see Specification No. 2 in this disciplinary case). Respondent said that he contacted the [REDACTED] County Police Department to inform them of the incident. Respondent said, "As a result of me contacting the [REDACTED] County Police Department, I was arrested because they said I should not have let her in the home that letting her into the home was a violation of the Order of Protection so that's when I was arrested in April."

Respondent acknowledged that there was an Order of Protection and acknowledged that he violated it because he claims that Person A wanted to live with him. This is a wholly unacceptable explanation. A court Order of Protection must be obeyed. The claim that the protected party wanted to violate the order is unavailing because the order is not from that individual but from the court. Had Person A wanted the order rescinded, she would have had to apply to the court. Among the reasons for this is the concern that a victim will be manipulated by an abuser.

Another aspect of Respondent's defense is that he was manipulated. This, as with so many of the things Respondent said, makes no sense. He could have and indeed had a

responsibility to inform Person A that he could not and would allow her into the home unless she had the Order of Protection lifted or modified.

As a citizen let alone as a law enforcement officer, he knew or should have known that he had to obey the court's order. The fact that he initiated a report to the police is neither defense nor mitigation. Respondent has acknowledged violating a court order and is found Guilty of this Specification.

Specification No. 2 alleges that, while off duty, on or about February 4, 2011, Respondent engaged in a verbal and physical altercation with Person A. Person A Tolentino learned of this incident through background checks with the [REDACTED] County Police Internal Affairs Unit. He learned that on March 1, 2011, Respondent reported to the [REDACTED] County Police that Person A had stayed over his residence at [REDACTED] in [REDACTED] on February 3, 2011 and a dispute occurred, in which Person A scratched Respondent and hit him on the nose, causing him to bleed.

Respondent stated that when Person A came to the house with her mother's boyfriend to get some things for the children, she attacked him in the home and then left. Respondent contacted the [REDACTED] County Police Department to inform them of the incident and he was subsequently arrested for violating the Order of Protection.

Once again, Respondent had a responsibility to stay away from Person A. If she had appeared at his house, he had a duty to refuse her admission to the house and if need be call the police at that point. By court order he was not supposed to be near her and the obvious purpose of that was to insure that no physical altercation of any kind took place. The fact that Respondent was in sufficient proximity to Person A for an altercation places the responsibility on him no matter who got the worst of the fight. Clearly, Respondent

was involved in a physical altercation with Person A and so he is found Guilty of Specification No. 2.

Specification No. 3 alleges that on or about February 4, 2011, having been involved in an off-duty police incident, Respondent did thereafter fail to promptly notify the Operations Unit, as required. Tolentino who was actively monitoring the Respondent, testified that, to his knowledge, Respondent did not notify the Operations Unit of his involvement in the altercation. Tolentino noted that the notification to the Operations Unit is supposed to be made immediately and not just at any time in the future. Tolentino learned of this incident through his own independent investigation. Respondent is found Guilty of Specification No. 3.

Specification No. 4 alleges that on or about and between March 16, 2011 and March 18, 2011, Respondent failed to comply with an order from Lieutenant Tolentino to turn in his Department-issued identification card, shield, metro card and LIRR pass to the 105 Precinct. Tolentino indicated that when Respondent was suspended on March 16, 2011, he was asked to turn in those items. According to Tolentino, Respondent said that he did not have the property with him. Tolentino testified that as a member of the Department, Respondent is required to have those items on him. Consequently Respondent is found Guilty of this Specification.

Specification No. 5 alleges that on or about and between March 16, 2011 and March 18, 2011, Respondent failed to safeguard his Department-issued identification card. Tolentino testified that at the time of his suspension, Respondent had said that he did not have the ID card. Tolentino further testified that on March 18, 2011, because Respondent had not turned in his ID, Captain Stewart went to Respondent's residence to

get it. When he got there, Respondent, Tolentino said, told Stewart that the ID card was lost. Respondent is found Guilty of Specification No. 5.

Specification No. 6 alleges that on or about and between March 16, 2011 and March 18, 2011, Respondent “did fail to notify the desk officer, precinct of occurrence immediately after becoming aware that he had lost his Department-issued identification card.”

It may be that Respondent failed to notify the Department of the lost ID card prior to Steward’s visit to his home on March 18, 2011, but what is needed is proof. More specifically, proof that the desk officer was not informed. No Log Book or other Department document where such an entry would have been recorded if the matter had been reported has been offered in evidence. No testimony, direct or even hearsay, was offered to establish that no desk officer was informed.

The Department has complete control over how it drafts a disciplinary charge. It must then offer proof to support that charge. That did not occur in this case. Therefore, Respondent must be found Not Guilty of Specification No. 6.

#### VI. Disciplinary Case No. 2011-4279

Respondent is charged in this case with one specification alleging that on or about and between October 4, 2010 and February 1, 2011, he violated a temporary Order of Protection, Docket # 20280/10, issued on October 1, 2010, by the New York State Supreme Court and valid until April 4, 2011.

This case was originally among the charges to be tried. Prosecution of this disciplinary matter has been deferred awaiting resolution of pending criminal charges regarding the same allegations.

VII. Disciplinary Case No. 2011-4500

This disciplinary case has two specifications. Specification No. 1 deals with a failure to report to the 105 Precinct while on suspension. Tolentino stated that on April 5, 2011, he went to Respondent's residence when he failed to appear at [REDACTED] County Court. Tolentino said that he personally informed Respondent he had to appear on Monday, Wednesday, and Friday at the 105 Precinct while he was under suspension. Subsequently, Tolentino conferred with the 105 Precinct and was told that Respondent had failed to appear as he was directed. On April 8, 2011, Tolentino informed Captain Velez, of this failure to appear and Velez made the determination that Respondent would be suspended again.

When Tolentino interviewed Respondent regarding the failure to report to the 105 Precinct, Respondent said that he may have received alternate instructions from Lieutenant Langmaack, the Second Platoon team leader in Tolentino's unit. According to Respondent, Langmaack told him that there was some sort of confusion and despite Tolentino's instructions to report to the 105 Precinct, Respondent no longer had to report because of the confusion. When Tolentino spoke to Langmaack, Langmaack said that he reiterated Tolentino's instructions to Respondent to report to the 105 Precinct. Additionally Langmaack recorded his instructions to Respondent in the Unit's Command Log.

Tolentino explained that usually officers submit waivers so they would not have to show up while on suspension. However, in this case, Velez had informed Respondent that the waiver was being removed so that they would be able to find Respondent when they needed him.

Respondent testified that after his arrest in April, Tolentino came to his home one day to inform him that he had to appear at the precinct on a weekly basis because there was some issue with his waiver. About five minutes after Tolentino left, Respondent said he received a call from a lieutenant from the Transit Bureau Investigations Unit whose name he did not recall. The lieutenant told Respondent that there was an issue with his waiver, but they found it so Respondent did not have to report. Respondent said that he asked this lieutenant “on numerous occasions” if he was sure he did not have to report and according to Respondent:

[H]is exact words were no you don't have to I was with Captain Velez this morning and the issue was that we couldn't find it but now we found it so you do not have to report to the precinct and so you know, you follow the last order you are given so I did not report to the precinct.

Respondent does not deny that he failed to report to the Precinct while on suspension. He claims instead that his appearances at the precinct were waived. Essentially, Respondent claims to rely on verbal instructions from an unnamed officer. He also claims to have relied on instructions from Velez and Langmaack, which were refuted by Tolentino. Respondent's claim to have been excused lacks credibility. Respondent is found Guilty of Specification No. 1.

Specification No. 2 deals with an alleged courtesy on April 8, 2011 to Captain Velez in that Respondent told Velez to “get a life” and when advised of his re-suspension stated “Thank you, I love the vacation,” and terminated that conversation.

Tolentino testified that when Respondent failed to appear at the 105 Precinct, Velez called Respondent to ascertain his whereabouts so he could suspend him. That phone call was recorded, (DX 4 is the audio recording and DX 4A is a transcript of that

conversation). During the telephone call, Velez informed Respondent that he was being re-suspended for failure to appear at the 105 Precinct previously. Respondent explained to Velez that Langmaack<sup>10</sup> told him that there was a mix-up and he did not have to report, but Velez said that he was next to Langmaack and that was not what happened. The last part of their conversation formed the basis of this specification:

PO RICHARDSON: Get [Langmaack] on the phone. I don't have time for these games. I've got to get a life, man.<sup>11</sup>

CAPT. VELEZ<sup>12</sup>: Officer Richardson, this is not a game.

PO RICHARDSON: Get a life, man. Well, look. Do what you want to do. I don't even care. Do what you want to do. No problem.

CAPT. VELEZ: As of 1800 hours, you are re-suspended.

PO RICHARDSON: Thank you. I love the vacation.

CAPT. VELEZ: And you have to show up—hello?

Respondent acknowledged that he had received a call from Velez asking why he had not reported. Respondent said he told Velez that he did not have to report because he had received conflicting orders and he took the last order. Respondent stated, "I expressly asked this lieutenant several times are you sure he said yes and you know that's when Captain Velez and I had the exchange of words."

Respondent acknowledged telling Velez to "get a life" during the phone call. Respondent explained:

[I]t's a very logical explanation in that I was in the middle of being suspended for the third time. My children were taken away from me yet again, the job was treating me extremely heavy handed, I am getting conflicting orders. He calls me in my home and actually at that time my father-in-law, my step-dad was in the hospital and we were

<sup>10</sup> Respondent referred to Langmaack as "Langley" in the transcript (DX 4A) but Velez can be heard on the compact disk referring to the lieutenant as "Langmaack" (DX 4).

<sup>11</sup> As in transcript. On the audio this sounds like "Ya got to get a life man."

<sup>12</sup> Velez is referred to as "Male Voice 1" in the transcript (DX 4A).

told it might be cancer so a lot of things were going on at the time and there were no empathy there was no sympathy there was no understanding and it seemed odd to me that he would call me that time of evening and I am explaining to him your lieutenant said I heard two different orders and there was literally no understanding on his part I was going through a great deal at that time.

Respondent denied hanging up the phone on Velez because he was angry, but he stated that he hung up the phone because he was hurt as a result of the conversation.

Respondent has admitted to being discourteous and has offered an explanation in mitigation. Respondent is found Guilty of this Specification.

X. Disciplinary Case No. 2011-5895

There is one specification in this disciplinary case which deals with a loan made by a merchant to Respondent within the confines of the precinct where he worked. Jeanty testified that IAB had received a complaint from Person B who stated that he was engaged in a dispute with Respondent regarding funds that were repaid to Person B. Jeanty interviewed Person B who told him that Respondent owed him approximately \$960. Person B was the owner of a pizza shop on Queens Boulevard, adjacent to where Respondent worked at the time in the Queens Court Section. Person B was aware that Respondent was a police officer, said Jeanty, because Respondent would often come to the pizza shop in full uniform for lunch and they developed a relationship. According to Jeanty, Person B said that over the period of time that Respondent would come to the pizza shop for lunch, Person B saw that Respondent had a worried look on his face. When Person B inquired as to what Respondent was stressed about, Respondent stated that he

was experiencing financial problems. Jeanty indicated that Person B specifically stated that he handed Respondent money.

Jeanty stated that during his official Department interview, Respondent admitted that he borrowed approximately \$300 from Nelson. Respondent said that he had paid back \$150, but he still owed Person B \$150. Jeanty indicated that Patrol Guide 203-15, sub paragraph 12 prohibits members of the Department from accepting money while in uniform in the area where they work.

Jeanty acknowledged that there was no reason to believe that the money was given to Respondent to ensure that he keep a closer eye on Person B establishment or that the money was given based on some coercive act of Respondent toward Person B

Respondent acknowledged that he did accept a loan from Person B. He testified that he now understands that accepting a loan from a merchant who owns or works in a business located in the confines of his command is prohibited.

Respondent is found Guilty of this Specification.

#### IX. Disciplinary Case No. 2011-6195

This disciplinary case has two specifications. The first deals with two bad checks issued by Respondent.

The first check was issued on February 19, 2011 to Landlord his landlord, in the amount of \$3,300. Graves interviewed Landlord who provided her with a copy of the check which was drawn from a bank account at Chase Bank. The check had been issued to Landlord by Respondent and it had bounced (DX 8).

Graves also interviewed [REDACTED] at Planet Motors, a car dealership. He too provided a check issued by Respondent dated February 25, 2011, drawn from the same bank account to Planet Motors in the amount of \$1,500 (DX 9). That check too had been returned as unpaid.

Subsequently Graves subpoenaed Respondent's bank records for the account on which the checks had been drawn (DX 10). The cover letter from Chase Bank explains that the account had been closed on October 29, 2011 because it had a zero balance for more than 30 days. The letter also notes that the last activity on that account was on August 30, 2010.

Graves stated that when she interviewed him some time in August or September 2011, Respondent told her that he did not know that the account had been closed but he did know that the account had insufficient funds. He had stated, she said, that it was his expectation that he would obtain money from family members to cover the check to his landlord. With regard to the second bounced check to Planet Motors, Graves testified that Respondent told her that he was going through some financial problems at about the time he wrote the check.

Respondent gave a slightly different explanation at trial regarding the Planet Motors check:

Well the car dealership was an interesting matter because the car dealership when I purchased the car from them from the time I purchased the car we had a great many challenges with the car and they kept sending me back to their mechanic so that amount was actually disputed because the car from the time I purchased it the check engine light stayed on so I ultimately had to put out monies to get the check engine light off so that is how that is disputed because they sold a car that wouldn't normally pass inspection so I wound up having to pay along and I

told them that based upon that you know that's why they didn't get that money it wasn't a matter of it was a matter they basically almost sold me lemon.

Neither explanation is an adequate defense for issuing a bad check. The so called explanation regarding the Planet Motors Check is tantamount to an admission that he intentionally issued a bad check.

In any event, the evidence is clear and Respondent is found Guilty of Specification No. 1.

Specification No. 2 alleges that on or about and between June 10, 2011 and October 1, 2011, Respondent "did fail and neglect to maintain a current New York State Driver's License." Graves came to investigate the suspended license charge when she received the case from IAB on or about June 2011, when Tolentino had called in a log stating that Respondent's license was suspended. When Graves conducted a FINEST license check, she determined that Respondent's license was suspended for not having insurance on the 2001 Audi TT. Graves said that when she interviewed Respondent, he said that Transit Bureau Investigations Unit notified him a week prior that his license was suspended, but he been unaware that it was suspended. Graves was told by Respondent that he knew that his insurance had lapsed and that the plates on the car were turned back in to the dealership.

Among the problems with this specification is the fact that the Department did not provide proof that Respondent's license was suspended for the entire period charged. The only DMV abstract in evidence (DX 3) is dated May 23, 2011 and obviously predates the period charged in this specification. Graves did testify that she found that Respondent's license was suspended in June but we do not have the date, which brings us

to the second problem. The specification does not charge the entire month of June but begins on the 10<sup>th</sup> of that month so we do not know if the check was done during or covered in even a portion of the period charged.

The Department has the burden of proving the charges it has put forth. It has failed to do so with regard to this specification and therefore Respondent must be found Not Guilty of Specification No. 2.

X. Disciplinary Case No. 2011-6478

This disciplinary case has three specifications and they arise from an automobile accident that the Respondent had been involved in. Tolentino initiated an investigation of the motor vehicle accident when he received a call from Respondent's [REDACTED] who said that Respondent had been involved in an accident with her vehicle on January 31, 2011.

Her insurance company had contacted her, but she had no information about the accident. The first specification deals with an allegation that Respondent provided a false name to the motorist with whom he was involved in a motor vehicle accident. Tolentino interviewed that motorist, [REDACTED] who told him that Respondent backed his vehicle out of West 138 Street and struck his car at the corner. They called 911 and Officers Arocho and Herrera of the 32 Precinct responded. The two motorists agreed to repair their damages and did not file an accident report, so the officers left the two motorists to exchange information.

According to Tolentino, [REDACTED] said that he asked Respondent for his vehicle's paperwork. [REDACTED] said that the Respondent would not show him the paperwork or his license. Instead, Respondent dictated his information to [REDACTED] and [REDACTED] wrote it

down. [The motorist] said that Respondent gave his name as Sean Robinson and he provided the client ID on his driver's license.

Tolentino said that [The motorist] stated that sometime in March he was working in Harlem Hospital when he encountered Arocho and Herrera. [The motorist] told the officers that he was having problems with the other motorist (Respondent), who would not give him money for the damages to his vehicle. When [The motorist] went to the 32 Precinct, he came across Arocho and Herrera again. The officers looked in their Activity Logs, where they had recorded the names of the two motorists before Respondent and [The motorist] had decided not to file an accident report. [The motorist] told Arocho and Herrera that the other motorist gave him the name Sean Robinson, but the officers advised [The motorist] at that point that he was given a false name. Respondent had given the officers his name as Steven Richardson, and he had identified himself as a member of the Department. Tolentino was unsure if Respondent had provided Arocho and Herrera with his driver's license.

Respondent testified that he told [The motorist] his name was Steven Richardson. When the police showed up, Respondent said he and [The motorist] gave their driver's licenses to the police, who then gave each person the other person's respective information. Respondent said that before the police arrived, he had a conversation with [The motorist] and the two agreed to call police because they could not agree on whose fault the accident was. Respondent denied not showing [The motorist] his driver's license and dictating his information to [The motorist]

In this instance [The motorist] hearsay claims are more credible than Respondent's denials. Respondent acknowledged that he had problems paying his various bills and that

his life was in disorder. Whether he knew specifically on that date that his license and insurance were suspended he certainly had reason to be concerned that they were. Thus [REDACTED] s statement that Respondent refused to show his paperwork is highly believable.

Respondent testified that they had not agreed on a settlement. This too makes no sense as police were on the scene. If he failed to agree to a settlement then they would have prepared appropriate paperwork.

The motorist statement was that they had an agreement. Of course Respondent had multiple motives for agreeing to a settlement on the scene, he had no insurance and no license. Also by giving a false name he could avoid payment altogether which almost happened had The motorist not run into the officers who were on the scene. Again the version of events given by The motorist is credible and supported by surrounding circumstances.

Respondent is found Guilty of Specification No.1.

Specification No. 2 alleges that Respondent failed to pay five Universal Summons, resulting in his being designated a scofflaw. According to Tolentino, Respondent was declared a scofflaw for failing to pay tickets, but Tolentino could not recall how many tickets. Tolentino stated that when he last checked at the end of 2011 when he closed the case, Respondent still had outstanding tickets.

Graves testified that Respondent's Audi was taken by the Sheriff Department for the unpaid parking summonses. She agreed that when someone does not have the money to pay for their tickets, they become a scofflaw. The issue is then referred to the sheriff who repossesses the vehicle for failure to pay.

Respondent testified that the white Jeep Commander that he shared with Person A was registered in his name, but she primarily used the car for their [REDACTED]. He said he was aware that Person A had accumulated a number of traffic summonses, but he explained that this was part of the financial challenge that they were having when they were together.

There is certainly no question that Respondent had outstanding unpaid summonses during the extensive period of time covered by all of these disciplinary cases. However this specification lists five specific summonses which it claims were unpaid. No documentary evidence or testimony was offered as to the specific summonses explicitly charged in this specification. Without that evidence, this Court cannot find the Respondent guilty of the specification as charged, (see also Disciplinary Case No. 2009-0235). Respondent is found Not Guilty of Specification No. 2.

Specification No. 3 charges Respondent with wrongfully operating a 2006 Jeep Commander, on or about January 31, 2011, while knowing or having reason to know that his license was suspended. According to Tolentino, when Officers Arocho and Herrera responded to the motor vehicle accident on January 31, 2011, they ran Respondent's driver's license on a Department computer and discovered that Respondent's license was suspended because he failed to have continual insurance coverage for his vehicle.

As part of his investigation, Tolentino also obtained an Abstract of Driving Record, Abstract of Registration Record, and Suspension Order for Respondent from the DMV (DX 3). The suspension order reflects that Respondent's license was suspended effective December 24, 2009, due to his failure to maintain continuous vehicle liability

insurance coverage. According to the Abstract of Driving Record, that suspension was not cleared until April 29, 2011. On November 8, 2010, Tolentino contacted Respondent's ICO, Ramos, to advise him that Respondent's license was suspended. According to Tolentino, Ramos was aware of the suspension and Ramos said he had already advised Respondent to go to the DMV to have the suspension removed. Tolentino said that when he interviewed Respondent regarding his license being suspended on January 31, 2011, Respondent said that he never received the notices that his license had been suspended. Tolentino did not recall if he asked Respondent if he had spoken to Ramos.

Respondent testified that he did not know at the time that his license was suspended on January 31, 2011.

Again Respondent's testimony on this issue is simply not credible. He should have known about the suspensions through DMV. He should have known about the suspensions because he was told by his supervisor to clear up his license. Most significantly, he had a responsibility to stay on top of these matters particularly given his marital and financial situations. Further, and not incidentally, as noted previously [The motorist] gave a credible statement to the effect that Respondent offered to settle and pay damages for the accident which indicates that he wanted to avoid having to provide his license not to mention his proof of insurance, things that did not exist. All of the evidence indicates that Respondent knew about this issue. Respondent is found Guilty of Specification No. 3.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974). The Respondent was appointed to the Department on July 1, 2004. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

While Respondent did not address each of the allegations specifically he acknowledged no wrongdoing during his testimony. Indeed he defended his conduct to the extent that it was raised during his testimony. He blamed the problems he has on his failed marriage and the conduct of Person A for instance, getting tickets on his car, having him arrested, obtaining orders of protection and other such things. He also complained that the Department failed to provide support.

Some of Respondent's conduct is criminal in nature. Issuing bad checks, something Respondent did on multiple occasions, is a crime if done with knowledge that there are no funds to cover the check; see Penal Law Section 190.05 and related presumptions 190.10. There is little question that Respondent, who issued checks on a closed checking account, did so with knowledge that there were no funds to cover the checks. His claim as to the check issued for rent, that he expected the funds to be put into the account by his family, is lacking in credibility. Respondent offered no such explanation for the issuing the check regarding the automobile and instead attempted to justify issuing a bad check on events that occurred subsequently.

Violating an Order of Protection is also criminal conduct, see Penal Law Section 215.50 *et seq.* In this series of cases, Respondent violated an Order of Protection not

once but twice. Further, Respondent made clear his disregard for court orders during the improper telephone message he left for Person A

This type of conduct, by itself, might justify separating Respondent from the Department. But it is coupled with other things like the loss of Department property and the failure to report the loss in a timely manner, the failure to maintain a driver's license, along with the other things he has been found guilty of, that demonstrate a complete lack of responsibility and reliability.

Respondent's accepting a loan from a merchant not only demonstrates his lack of familiarity with the Patrol Guide but a failure to recognize the appearance of impropriety such a loan creates. It is also worth noting that the matter came to the Department's attention because of a dispute that arose over the amount owed on that loan.

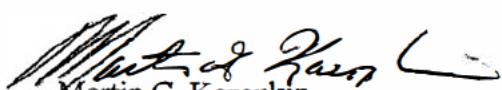
His attitude toward the outstanding warrant is also problematic. Respondent claimed not to be very familiar with the issue of bench warrants which is surprising given that he works for a Department that is charged with arresting people on such warrants and bringing them before the court. His claim not to be familiar with warrants is doubly unbelievable in that he was assigned to a unit, the Court Section, which addresses the issue of outstanding bench warrants all the time. Most significantly, his failure to promptly vacate the warrant on his own speaks again about his cavalier attitude toward the courts as well as his lack of personal responsibility.

All of these acts certainly demonstrate that he is unfit to serve as a police officer but what makes his separation from the Department absolutely imperative is Respondent's attitude towards his conduct. He constantly rationalizes his behavior in a way that makes one wonder if he recognizes the difference between right and wrong.

Nothing Respondent said during his testimony at this trial indicated reflection on his part about any of his conduct, quite the contrary he held himself out as virtually blameless.

Counsel for Respondent has asked that this Court consider a penalty of dismissal probation. This Court must reject that proposal. The volume of serious misconduct and, as noted, the nature at least of some of that misconduct justify termination. The lack of understanding and insight creates an equally significant problem. Respondent does not understand or respect the role of the law in society. He has blithely put his own interests above his responsibility to others and there is every reason to believe he would do so again. Monitoring him for one year would be wholly inadequate. It would be irresponsible to entrust Respondent with the substantial powers afforded to law enforcement officers. There is no responsible alternative but to recommend that Respondent be DISMISSED from this Department.

Respectfully submitted,



Martin G. Karopkin  
Deputy Commissioner Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Deputy Commissioner Trials

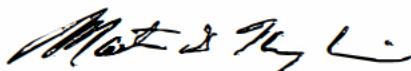
To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER STEVEN RICHARDSON  
TAX REGISTRY NO. 934344  
DISCIPLINARY CASE NOS. 2008-0180, 2009 0235, 2010-0182,  
2011-3603, 2011-4275, 2011-4279,  
2011-4500, 2011-5895, 2011-6195,  
2011-6478

In 2011, Respondent received an overall rating of 3.5 "Highly Competent/Competent." He was rated 4.0 "Highly Competent" in 2007 and 2008. In his eight years of service [REDACTED]

[REDACTED] He was placed on Level II Discipline Monitoring in May 2010. Respondent has no prior formal disciplinary record.

For your consideration.



Martin G. Karopkin  
Deputy Commissioner – Trials